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ABSTRACT

A Senate committee hearing received testimony on the implementation of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 in American Indian and Alaska Native tribal communities. The act provided authority for tribal governments to administer welfare programs formerly administered by the states but did not provide funds to develop the infrastructure to administer welfare programs. A panel of researchers from the General Accounting Office and elsewhere reported on an ongoing study of tribal welfare programs, focusing on economic conditions on Indian reservations; changes in the numbers of Indian welfare recipients since the law was enacted; how the law's flexibility has allowed recipients to engage in traditional subsistence activities and self-employment and pursue education and job training; and tribes' lack of administrative experience and necessary infrastructure, such as automated data systems. Written statements and testimony from Senators and representatives of various tribes, American Indian and Alaska Native organizations, and federal and state agencies discussed poverty and unemployment in Indian country, needs of tribal governments for administrator training and technical assistance, the need for financial assistance to develop small businesses, policy and governance problems in relationships between state and tribal programs, the need for "rural/frontier status" for isolated areas, inadequate funding to meet education and job training needs, needs for child care assistance, and descriptions of tribal welfare services. Many witnesses supported a proposed

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ED 469 325

S. Hrg. 107–500

IMPLEMENTATION AND REAUTHORIZATION OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

ON

THE IMPLEMENTATION AND REAUTHORIZATION OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996 IN INDIAN COUNTRY

MAY 10, 2002
WASHINGTON, DC

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IMPLEMENTATION AND REAUTHORIZATION OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

WEDNESDAY, MAY 10, 2002

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 10 a.m. in room 485, Senate Russell Building, Hon. Daniel K. Inouye (chairman of the committee) presiding.

Present: Senators Inouye, Baucus, and Johnson.

STATEMENT OF HON. DANIEL K. INOUYE, U.S. SENATOR FROM HAWAII, CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS

The CHAIRMAN. The committee meets this morning to receive testimony on the implementation of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 in Indian country.

Seven years ago when this Act was being formulated, the Committee on Indian Affairs worked with the Senate Finance Committee to address the unique circumstances of Indian country where unemployment rates in tribal communities ranging from 50 percent to higher is unfortunately common and where the goal of transitioning from welfare to work is frustrated by the fact that there simply are not many job opportunities on or near many Indian reservations.

Studies inform us that across Native America thousands of Indian adults seized the opportunity of welfare reform initiatives to acquire new skills and take advantage of job training and education but finding work in remote, rural areas has proven to be an almost insurmountable obstacle.

Add to that, where there are high rates of unemployment and poverty, people usually don't have or can't afford transportation to take them to and from places of work that are often located at great distances from their home communities. The lack of child care options for single parents trying to enter the work force further frustrates the ability of those who are committed to leaving a life dependent on welfare behind.

The act provided authority for tribal governments to assume responsibilities for the administration of welfare programs formerly administered by the States but the act did not provide the kinds of resources that had been provided to States through various block grants to develop the necessary infrastructure to administer welfare programs.

From 1980 to 1992, States received approximately $542 million for automated computer systems to administer welfare programs. Accordingly, many tribal governments simply didn't have the computer systems and administrative structures in place to develop and administer the Temporary Assistance for Needy Families Program.

There are many complex issues associated with how welfare to work clients are counted by the States and to what extent State numbers draw from unemployment on Indian reservations for purposes of receiving Federal funding but do not commit a proportionate share of the resources and provision of welfare to work program services to Indian people.

So today we will receive testimony from representatives of the General Accounting Office [GAO] who at the request of the Committees on Indian Affairs and Finance are completing a study on the implementation of welfare reform in Indian country. In addition, we will hear from other witnesses today who have studied some aspect of how welfare reform is working in Native America as well as from tribal leaders and program administrators who will relate their experiences with developing effective temporary assistance for needy families.

It is most unfortunate that with all this important and useful information that will be placed in the official records of the Senate today, the Federal agency that is charged with the primary responsibility of implementing welfare reform, the Department of Health and Human Services, has declined to appear before the committee this morning on the grounds that they are too busy. Sadly, it would seem that the department doesn't place a very high priority on welfare reform in Indian country.

A few days ago, Senator Baucus introduced a bill entitled, "The American Indian Welfare Reform Act," S. 2484. This bill seeks to address many of the special circumstances in Indian country and to provide a great array of resources for tribal TANF programs.

So we look forward to the testimony this morning as we work with our colleagues on the Senate Finance Committee to assure that welfare reform initiatives are adapted to be more effective in serving the needs of Native America. Looking upon the problem before us, it once again reminds us that possibly the best solutions to Indian problems may be found in Indian country. We in Washington are men and women of good intentions and this Act was an expression of good intentions but somehow it did not work in Indian country because some of us were not aware of the problems. Perhaps the drafters were not aware that the distances were great, jobs opportunities were scource or that poverty was that extensive, or that in Navajo land, only 25 percent of the people have telephones. These are some of the small things that good meaning people may not have known.

I have here a statement of Senator Ben Nighthorse Campbell, the vice chairman of this committee, who has other responsibilities, so without objection, his statement will be made a part of the record.

[Prepared statement of Senator Campbell appears in appendix.]

The CHAIRMAN. Our first panel consists of the following distinguished persons: The managing director, education, workforce, and income security issues, General Accounting Office, Cynthia Fagnoni and the director, Udall Center for Studies in Public Policy, University of Arizona in Tucson, Stephen Cornell.

STATEMENT OF CYNTHIA M. FAGNONI, MANAGING DIRECTOR, EDUCATION, WORKFORCE AND INCOME SECURITY ISSUES, GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY KATHY LARIN, JOB LEADER

Ms. FAGNONI. Good morning.

I would like to introduce also Kathy Larin who is with me. She was the Job Leader on the project we are working on.

The CHAIRMAN. Welcome.

Ms. FAGNONI. I am pleased to be here today to discuss how American Indians have fared under welfare reform and issues some tribes have faced in administering tribal TANF programs. My testimony today will focus on four issues: The economic conditions on reservations; how the number of American Indians receiving TANF assistance has changed since the welfare reform law was enacted; how tribes have used the flexibility in the law to design and administer their own programs; and challenges tribes have faced in implementing tribal TANF programs.

This testimony is based on ongoing work we are conducting for you, Mr. Chairman, as well as Senators Baucus, Bingaman, Daschle, and Conrad.

First, regarding economic conditions, our work shows that tribes have engaged in various strategies to stimulate economic growth, many focusing on the development of tribally owned enterprises, yet despite these efforts, unemployment and poverty rates remain high on many reservations.

To give just one example from the site visits we made, on the Blackfeet Reservation of Montana, 74 percent of adults are unemployed and of those who are employed, 22 percent live in poverty, according to the most recent BIA data. Furthermore, as Dr. Cornell will also discuss, many tribes lack some of the key factors that have been shown to lead to economic growth on reservations.

Regarding the second issue, TANF caseloads, the number of American Indians receiving TANF benefits nationally has fallen over the past several years, as it has for other groups, but on many reservations, the number of American Indian families on welfare has stayed the same or increased. In some States, most notably South Dakota, Montana, and North Dakota, American Indians represent an increasing share of the States' TANF caseloads. In South Dakota, for example, American Indian families represent nearly 80 percent of the TANF caseload, up from 60 percent in 1994.

Turning now to tribal TANF programs, our third issue, the Department of Health and Human Services has to date approved 36 tribal TANF programs serving 172 tribes. Most of these programs have used the flexibility in the law to tailor their programs to their communities. Tribal TANF programs are given the flexibility to define the activities they count as work more broadly than State TANF programs. Most programs have taken advantage of this flexibility, allowing their recipients to participate in such activities as traditional subsistence hunting and gathering, cultural activities, and self-employment that would not be counted as work activities under State TANF programs.

For example, the Port Gamble S'Klallam Tribe, whose reservation is located on Washington's Puget Sound, allows recipients to count time spent engaged in traditional subsistence gathering and fishing.

The tribal TANF programs that responded to our survey reported that they tend to encourage recipients to engage in education or training activities rather than emphasizing job search and work. In contrast, a majority of TANF recipients engaged in work activities in State programs are in unsubsidized jobs.

Tribal TANF programs also have more flexibility than States in setting their own time limits on receipt of cash assistance, but so far, HHS has not approved any plans that have time limits over the 60-month maximum allowed under State programs. Tribes also have more flexibility than States in determining how many TANF recipients can continue to receive benefits after they reach their time limits. For example, 10 of the 36 programs have chosen to exempt more recipients who reached their time limits than is permitted under State programs.

Of course many tribal TANF programs are not subject to time limits because any time spent living on a reservation with an unemployment rate greater than 50 percent does not count toward an individual's time limit. Of the 29 tribal programs that serve a single tribe, 16 are located on reservations that have unemployment rates of 50 percent or greater according to the most recent BIA data.

Last, tribes have faced a number of challenges as they implement tribal TANF programs. Many tribes have found that data on American Indians are inaccurate, complicating the determination of tribal TANF grant amounts and making it difficult for tribes to design and plan their programs. In addition, because tribes are starting to administer TANF for the first time, many do not have the infrastructure they need, nor do they have the experience or expertise in administering key program features such as determining eligibility and setting up information systems. The Fort Belknap Tribal TANF Program in Montana for example serves 175 families, yet it does not have an automated information system for collecting, processing, and reporting TANF data.

Tribes have secured contributions from a variety of sources to cover their significant start-up costs and ongoing operating expenses. In addition, some tribes have received technical assistance from the State and the Federal Government.

I would like to close by noting that tribes are just beginning to administer their own welfare programs, tailor the design of their programs to their communities and engage their members in a broad array of work activities. It is not yet known whether these programs will help recipients find employment before reaching time limits or whether the flexibility afforded the tribal TANF programs will allow them to continue to provide benefits to those who reach the time limits without obtaining a job.

Whether tribal TANF programs will be successful in moving more American Indians from welfare into the work force will ultimately depend not only on the ability of the programs to meet their recipients' needs but also on the success of economic development efforts in providing employment opportunities for American Indians.

This concludes my prepared statement. I would be happy to answer any questions you may have.

[Prepared statement of Ms. Fagnoni appears in appendix.]

The CHAIRMAN. Thank you very much, Ms. Fagnoni.

We will listen to Dr. Cornell before we ask questions. Dr. Cornell?

STATEMENT OF STEPHEN CORNELL, DIRECTOR, UDALL CENTER FOR STUDIES IN PUBLIC POLICY, UNIVERSITY OF ARIZONA

Mr. CORNELL. Thank you and I appreciate the opportunity to talk with you this morning.

This past year, the Native Nations Institute for Leadership, Management and Policy at the University of Arizona and the Buder Center for American Indian Studies at Washington University in St. Louis were asked by the National Congress of American Indians to analyze the impact of the 1996 legislation on American Indians and Alaska Natives.

Dr. Eddie Brown of Washington University and I directed that study and in the next few minutes I will touch briefly on some of the key findings from it. The news is both good and bad and there are six points I wish to make.

The first is that the 1996 legislation clearly has enhanced tribal self governance and improved welfare service provision in Indian country because it allowed Indian nations to design and administer their own TANF and related programs with direct Federal support. It has allowed those nations to design those programs to speak directly to reservation needs, given them improved flexibility, improved the accessibility of welfare related services, and the evidence is substantial that this has had positive benefits on the delivery of welfare services across Indian country in those cases where tribes have taken over their own TANF programs. This is the good news.

The bad news is that despite this, welfare reform has been substantially less successful in Indian country than elsewhere in moving individuals from welfare to work or in reducing poverty. Ms. Fagnoni has already summarized some of the statistics on that. We do not have a lot of research on the impact of welfare reform on Indian family and community well being but the data we do have are not encouraging.

The one longitudinal study to date in Arizona found that nearly one-quarter of American Indians who had moved from welfare to work under the new legislation had stopped working within 3 months, one-half were not working after 1 year, only a small portion of those who had made the move were working full time, even among those with full-time employment, significant numbers reported they were unable to afford enough food for their families or had lost gas or electricity services because of their inability to pay utility bills.

Why are we seeing these discouraging outcomes? One reason certainly is resources and I could not put it better than you did yourself in the opening remarks, Indian tribes have been penalized for being tribes and have not received the same resources that States have received for the administration of TANF programs and child care programs.

Another reason for this discouraging outcome is the distinctive nature of some reservation populations. These resource inequities are exacerbated by the fact that tribal TANF populations typically include higher proportions of what are commonly known as hard to serve clients who face multiple barriers to employment. The history of dependency and economic stagnation on reservations has left behind high proportions of residents with little work experience and few job skills and often high proportion of individuals suffering from behavioral problems. These populations are particularly difficult and expensive to serve.

Yet another reason for discouraging outcomes on Indian reservations is the combination of particular obstacles to employment that reservation residents face. The three leading obstacles that emerged in our study were first, inadequate transportation. You have already mentioned that yourself. The distances on reservations are often long to the workplace. Large numbers of Indian families do not own an automobile and public transportation is essentially absent. This leaves many TANF recipients literally unable to get to work. While there are some Federal programs that do speak to these issues, tribal access to these programs has been limited.

The second obstacle is the lack of child care facilities. The 1996 legislation expanded the Child Care and Development Fund which assists those leaving welfare in obtaining child care. Tribes can take advantage of these funds and have some flexibility in doing so. The legislation also significantly increased other funds that tribes could use to support child care and these developments have had positive effects. However, CCDF expires this year and even with these additional funds, the lack of child care services in much of Indian country prevents many reservation residents from taking regular jobs.

The third obstacle is simply the lack of appropriate skills. Combined with the frequency of behavioral problems, this presents tribes with daunting skills and job training challenges. While there is Federal funding for these kinds of issues, that funding has not increased since the passage of PRWORA in 1996. In short, a critical piece of the welfare to work puzzle is severely underfunded in Indian country.

I would like to mention one positive development in that regard. Public Law 102–477, the Indian Employment, Training and Related Services Demonstration Act allows tribes with funding for several employment and training related programs, including child care, to pool those resources and integrate these services even if they are funded by different Federal agencies.

This allows tribes to operate programs under a single plan and budget. The evidence is that this has been very successful as tribes have saved staff time, reduced paperwork, established one stop shops and responded where needs are greatest, serving more people and improving effectiveness. These kinds of models deserve our support.

Finally, the largest barrier to welfare reform in Indian country is simply job scarcity. There is an enormous gap on many reservations between the size of the labor force and the number of jobs generated in local economies. Under these conditions many of those leaving the welfare rolls face a stark set of options, either their homelands in search of work elsewhere or rely on the already overburdened, informal family support networks through which many reservation residents struggle to survive.

Current welfare policy has paid little attention to this problem. In a sense, the supply side has been ignored, moving people from welfare to work is an admirable policy goal but it has little chance of success if there is no work to move to. Until Federal policy takes seriously the need for reservation economic growth and invests in building the growth capacities of Indian nations, welfare reform in Indian country will spin its wheels.

Yet we know that economic development in Indian country can work. We have evidence of tribes that are building sustainable and self determined economies. The key factors appear to be the exercise of tribal sovereignty, capable governing institutions that match indigenous cultures, and strategic thinking for the long term future.

What really is required is investments in nation building, in particular in the institutional capacities of tribal governments, as well as support for tribal sovereignty so that Indian nations can shape economic growth to their own priorities and goals.

Our overall conclusion is there have been some significant successes in the welfare arena in Indian country, particularly as some nations have responded to the legislation with resourceful, innovative, welfare programs but while the shift in the legislation toward tribal self governance is positive and productive, the combination and concentration of obstacles to welfare reform on reservations, the lack of program resources, and the lack of attention to economic growth as a welfare reform strategy mean that current welfare policies are likely to fail in much of Indian country.

Thank you.

[Prepared statement of Mr. Cornell appears in appendix.]

The CHAIRMAN. Thank you very much, Dr. Cornell.

Two days ago, a measure was introduced in the U.S. Senate entitled called "American Indian Welfare Reform Act," S. 2484. Many of us look upon this measure as one that may respond to many of the problems that will be identified this morning. I am pleased and honored to call upon Senator Max Baucus the chairman of the Senate Finance Committee, and also the author of this measure, if he would wish to say a few words now.

STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR FROM MONTANA

Senator BAUCUS. Thank you very much, Mr. Chairman.

I thank all the members and everyone here today seeking the same objective, namely how to provide better welfare reform legislation to help all our friends in Indian country.

Mr. Chairman, I thank you for allowing me to stop by and make a couple of brief statements.

I would like to begin with the 1996 law which I supported. As we know, it introduced sweeping changes in the way welfare is viewed. One important aspect of the 1996 law allowed States to operate their own programs and also it permitted Indian tribes to operate their own welfare programs. That was provided for the first time. I think this is very wise policy and is certainly consistent with the important value of tribal sovereignty which I support.

My own State of Montana has several tribes and so I have given quite a bit of thought to how we could build upon the provisions of the 1996 law. Too often, as we know, not only in Montana but elsewhere, poverty has an Indian face. I might say that although there has been about a 50-percent reduction in welfare caseload nationwide since the last law was enacted, that is much less true in Indian country and in my State of Montana, 50 percent of all recipients today on welfare are Native Americans. It is a statistic that is just glaringly a problem that has to be solved.

Also, according to the Census Bureau, about one-quarter of all Native Americans live in poverty, more than twice the national rate; the average household income for Native Americans was about three-quarters of the rest of America, and that simply is not right. Welfare reform has to work for everyone, not just those not in Indian country.

Luckily the provisions of the 1996 law give a good start. The bill I introduced last Wednesday is a product of working very closely with a lot of Native Americans not only in my State but around the country and there is one aspect I really want to focus on very, very briefly and that is the section on economic development.

In the last bill, the focus was on job training, on education, but since 1996, we have found that all the job training in the world doesn't do much good unless there are jobs available. I realize there are many tribes that do not operate their own TANF program but nevertheless, I believe it is very important that States work with those tribes to develop their own plans.

In my legislation, I direct States to much more directly consult with tribes for their own plan. I have directed States to describe how they are providing equitable access.

There is much, much more obviously. I don't want to take your time but I do want to thank you very much for holding this hearing because this is a critically important aspect of welfare reform. The testimony you are getting here today will go a long way to helping all of us in the Senate decide which provisions make the most sense not only for America but more specifically for Indian country.

I would like to welcome two Montana panelists here today. One is Alvin Windy Boy, chairman of the Chippewa Cree and he will give testimony a bit later and Teresa McDonald, representing the chairman of the Confederated Salish and Kootenai Tribes. Those of us who know Teresa know that she does a bang up job. They are going to be testifying about TANF changes they think make the most sense. I know they will give good advice, as will the other witnesses.

I thank you very much, Mr. Chairman. You are providing tremendous service here. As I said, we want to work with you.

The CHAIRMAN. Chairman Baucus, thank you for your leadership and your wise words. We will do our very best to handle the bill you have just introduced in an expedited fashion.

It is my pleasure to call upon Senator Johnson.

STATEMENT OF HON. TIM JOHNSON, U.S. SENATOR FROM SOUTH DAKOTA

Senator JOHNSON. Thank you, Mr. Chairman.

Briefly, I want to thank you again for holding this very timely and essentially a very important hearing relative to welfare authorization as it relates to Indian country.

I want to thank Senator Max Baucus as well who has been a champion of Native American issues is critically well positioned as chairman of the Finance Committee to play an important role.

This hearing is an essential one. I appreciate the testimony of this panel. We have unique needs in Indian country related to high levels of poverty, lack of jobs, distances, lack of child care, lack of transportation and so many other concerns that are somewhat unique to Indian country as opposed to other communities across the Nation.

Later on today, we are going to hear testimony of Michael Peters, secretary of the Sisseton Wahpeton Sioux Tribe of South Dakota. The Sisseton Wahpeton is the only tribe in South Dakota of our nine tribes that runs its own TANF program. I have been impressed with what they have been able to do and look forward to his insights, along with the insights of the rest of the panel members.

Thank you for holding this hearing today. I will submit a full statement in writing.

[Prepared statement of Senator Johnson appears in appendix.]

The CHAIRMAN. Do you have questions?

Senator JOHNSON. I have no questions for this panel.

The CHAIRMAN. I have a few questions.

Ms. Fagnoni, do you have any suggestions as to what incentives we can provide that can best assist tribes in improving their TANF programs? You have indicated that those who have had some flexibility in administering programs do succeed. Are there other incentives we can use?

Ms. FAGNONI. One of the things we identified in going out and meeting with both States as well as tribes and representatives from their programs was there are some aspects of funding that are available to State programs but not available to the tribal programs. We cite a couple of those in our testimony.

One is in the 1996 welfare reform legislation. There were what are called different types of performance bonuses that States could decide to apply for, things that would give them some additional funding if they met some goals in terms of job placement and retention, earnings and things like that. It might be worth taking a look at whether it would be helpful to allow tribal programs to also have access to those bonuses.

There is also another area where it is something to consider, but I know States would have a viewpoint on this. In the funding that States receive, there is a portion that is Federal and a portion that is State which is called maintenance-of-effort funding. For tribes that assume responsibility for their own programs, the State requirement for maintenance of effort gets reduced to take that into consideration. There has been some discussion that if that requirement were not reduced, that might provide States with some incentive to provide some portion of the maintenance-of-effort funds to the tribal programs. Some States already do that, some States don't. That is another example.

The other thing we heard which may or may not be a funding issue, may have more to do with how to best enable tribes to take advantage of the resources that may be out there. The tribes that do use the 477 Program find that to be useful. You will probably hear from them about that in trying to streamline and merge different funding streams to their advantage.

The other thing we heard from a number of programs was the need for more systematic technical assistance from the States and Federal Government.

These are some examples of both funding as well as assistance that might be helpful or things to consider.

The CHAIRMAN. Under the law, tribes operating TANF programs may define what work activities are all about. Is that definition subject to approval?

Ms. FAGNONI. Yes; the tribal programs are subject to approval by HHS. HHS has approved plans that have defined work activities more broadly than would be allowed under the State programs. For example, some tribes have taken advantage of this and will include teaching cultural activities as a countable work activity and include subsistence types of hunting and gathering as a countable work activity, so they are allowed to use better definitions. A number of tribes have taken advantage of that to more broadly define work activities for purposes of meeting their work participation goals.

The issue then becomes how does this help move people ultimately into a job and self sufficiency. It is certainly something that can help in the short term for work participation goals but I think it remains to be seen how this flexibility helps or doesn't in terms of self sufficiency which is the ultimate goal.

The CHAIRMAN. Is this information communicated with all tribes in our Nation? For example, I would assume that some of the better equipped tribes would know what is happening in the world but there may be some with limited communication, transportation and such, who may not be aware that in Tribe A you may use salmon fishing as an authorized work activity and if they knew that, they might do the same thing. Do we have a system whereby everyone is made aware of what other tribes are doing under TANF?

Ms. FAGNONI. What we heard going around the country and in talking with people is there really isn't a system like that in place. I know the tribes themselves have gotten together in different forums to try to share information but what we heard is there are a number of individuals and officials who felt they wished there were a better mechanism for learning about best practices of different programs.

The CHAIRMAN. Have you had an opportunity to study Senator Baucus' bill, the new one?

Ms. FAGNONI. We really haven't at this point.

The CHAIRMAN. *Are you ready to* make any assessment or suggestions?

Ms. FAGNONI. As I said, I think there are some places in terms of performance bonuses and maintenance of effort that might be something to consider but certainly you would want to hear the viewpoint of States, particularly on the maintenance-of-effort issue. I think there is legitimate interest in additional technical assistance. Those are the pieces that really surfaced from the specific work we did for this project.

The CHAIRMAN. Dr. Cornell, both Senator Baucus and you have emphasized economic growth and economic development. What is the use of training people if there are no jobs available? Have you had an opportunity to look over Senator Baucus' bill?

Mr. CORNELL. I am afraid I haven't, Senator, although I was encouraged by his statement that the emphasis in this bill was in part on economic development. I would want to see what the provisions of the bill say.

The CHAIRMAN. What sort of economic development would you suggest?

Mr. CORNELL. I am not convinced that there is an economic development strategy that can be applied across Indian country. What we have seen is that those Indian nations with appropriate governing institutions that have been able to build an environment in which entrepreneurs want to work, people want to invest energy, time and money, those Indian nations are developing their own strategies and they range very widely from private entrepreneurship and small business startups popping up around reservations to major tribally owned and operated enterprises, usually responding to the specifics of the local market and situation.

I think the critical thing is allowing tribes the opportunity to build economic growth strategies of their own and investing in the institutional capacity to bring those strategies to life.

The CHAIRMAN. In other words, there is no one set scheme that can be initiated in Washington; it has to be tailored by tribes in their locale?

Mr. CORNELL. I think when it comes to economic strategies, part of the difficulty has been schemes that were originated somewhere else and then applied in Indian country. I think what Washington could do is pay more attention to the institutional environment in which economic development is trying to take root and investing in supporting sovereign tribal governments in exercising their sovereignty effectively through strong tribal courts and those kinds of institutional mechanisms.

Those then put in place the groundwork with which tribes can pursue their own strategies more effectively. I think that is more the role of Washington in that game, the institutional capacity investments rather than coming up with specific economic strategies and then trying to apply them in very different situations.

The CHAIRMAN. May this committee submit questions to both of you because we would like to do that, taking into consideration as well the new bill introduced by Senator Baucus?

Ms. FAGNONI. Certainly.

Mr. CORNELL. Yes.

The CHAIRMAN. As a result, we will keep the record open for 4 weeks to give you ample time to respond. Most of the questions I have here are rather technical in nature.

With that, I thank you very much for joining us.

Our next panel consists of: Dallas Massey, Sr., chairman, White Mountain Apache Tribe, White River, AZ; the chairman of the Chippewa Cree Tribe of Rocky Boy's Reservation, Box Elder, MT, Alvin Windy Boy, accompanied by the director of the Cherish Our Indian Children, Toni Plummer; the tribal secretary of the Sisseton Wahpeton Sioux Tribe of Agency Village, SD, Mike Peters; Teresa Wall-McDonald, Salish and Kootenai Tribes of Pablo, MT.

May I first call upon Chairman Massey.

STATEMENT OF DALLAS MASSEY, CHAIRMAN, WHITE MOUNTAIN APACHE TRIBE

Mr. MASSEY. Good morning, Mr. Chairman and honorable members of the committee. It is a privilege and honor for me as chairman of the White Mountain Apache Tribe to address the U.S. Senate Committee on Indian Affairs on behalf of your constituents who are my people, Fort Apache Indian Reservation, and our relatives in Indian country as a whole.

Our purpose today is to discuss the implementation and reauthorization of Personal Responsibility and Work Reconciliation Act of 1996 which I will refer to simply as the act.

In the interest of working with you for the privilege of millions of citizens of the United States who are privileged and honored to be Native Americans, I request your swift promulgation of welfare reform legislation tailored to the unique needs of Indian country that realistically fulfills the purpose of the act because while it helps, it fails to address the root of the overwhelming need of welfare assistance in Indian country.

This root is the lack in Indian country of jobs, educational opportunities and skills training, and the availability of low transportation which all requires enough time to cultivate for rich and productive growth. Once we address the root of the problem, the act can help foster the benefit of our community that we all envision.

I will talk later about the ideas I think are necessary for the legislation that can bring true welfare reform to Indian country. Right now, let me tell you about the impact the act has had on the Fort Apache Indian Reservation, the home of my people.

As the chairman of White Mountain Apache Tribe, I know the needs of my reservation and my constituents. With this background, I can confidently tell you that PRWORA has failed to adequately address the needs of the White Mountain Apache people and Indian country in general. After the act became law, we looked at it and decided we wanted to take advantage of the opportunity it offered us to develop our own service plan and to operate welfare assistance as a tribal program. We were one of the first nations to take a bold step of developing our own service plan and operating our own program. It has been good to see the benefits that it has brought to our communities and people.

However, along the way we also learned the restriction of the act such as 5-year limits for assistance which could seriously hurt our people. Although the act helps fund skills and educational training for work preparation, these people soon realize that while they are well trained, they still cannot find jobs because of economic depression on Indian reservations.

Recent revisions of the Act exempt Indian nations with more than 50 percent unemployment which is what helps continue to meet the needs of our community but seems to penalize those nations who succeed in lowering their unemployment rates below 50 percent, only to have their peoples' welfare assistance cut for progress they have made. More changes are needed if we are to see true welfare reform in Indian country and on Fort Apache Indian Reservation.

Unemployment statistics from the most recent census shows that White Mountain Apache Tribe and Indian people in general are twice likely to live in poverty than the non-Indian population and twice as likely to be without employment.

My people go without food, electricity, employment and shelter. This is not their fault. It is the lack of jobs and inadequate Federal and local funding assistance required for the area with close to 60-percent unemployment and average income far below the Federal poverty level.

Today's needs are even more apparent. While the White Mountain Apache Tribe did take advantage of its ability to contract the operation of Temporary Assistance of Needy Family Program along with the Welfare to Work Program, the White Mountain Apache Tribe has experienced significant increase in its clients who request assistance for themselves and their families. Coupled with this increase, we have experienced a financial setback with the State of Arizona recently withdrawing its State moneys earmarked for the TANF program in Indian nations and applied them to the State budget deficit. Arizona's withdrawal of this funding yet again disadvantaged the ability of my people and Indian people throughout Arizona to realize economic self sufficiency and eventual freedom from Government assistance.

By cutting funding, Arizona made disparities between our ability to provide services even more apparent. Although the act allows an Indian government the right to operate their own welfare assistance programs and to develop plans, policies, and procedures tailored to the unique needs of our communities and clients, it still fails to place us on a level playing field with our counterparts in the state of economic security.

As an example, consider the expense of my government facing today in training and education of its Department of Social Service staff and clients on change, on its plan and operation, costs which could be absorbed through adequate start-up, technical assistance funding similar to Federal funding which greatly assists State governments and their welfare reform assistance capacity.

Not only do we request increased funding for administrative and technical assistance, we also strongly encourage Federal finance assistance to our community in the form of tax initiatives, bond incentives, transportation grants, vocational-educational opportunity grants and community infrastructure development grants. There is no doubt that increased funding for the administration of welfare assistance is desperately needed but we need even greater infusion of financial assistance for development of small businesses, construction and industrial improvements so we can jump start our economy. We all know that small businesses oil the economic engine that powers a thriving community. We want to give our people the chance to operate their own business and realize a profit.

As you can see my overall request is that you promulgate welfare reform legislation tailored for Indian country, that provides realistic opportunity for our people and our government to meet the extreme needs of our communities which are generated from high unemployment rates and the lack of industry and educational opportunities.

Adequate Federal funding targeted toward the area I just mentioned will help not only the White Mountain Apache Tribe but all Native nations across Indian country in creating real economic opportunity for their members. Only when we see real economic opportunity and considerable increase in jobs, training, business opportunities in our communities will we even begin to speak of realistic welfare reform in Indian country.

Mr. Chairman, from the elders of the White Mountain Apache Tribe, I express our deep appreciation and gratitude for your efforts to bring help in their struggle for economic self sufficiency. I encourage you to seek even more advice and recommendations from Indian nations across the country and various State and local advocacy groups for Indian people before finalizing and passing American Indian welfare reform.

Our decisions today will impact future generations, so let us give them respect by making sure the decisions we make are well thought, well informed, adequate for their needs when they realize them in their future.

[Prepared statement of Mr. Massey appears in appendix.]

The CHAIRMAN. Thank you very much, Mr. Chairman.

Now may I call upon Chairman Windy Boy? Welcome, sir.

STATEMENT OF ALVIN WINDY BOY, CHAIRMAN, CHIPPEWA CREE TRIBE, ROCKY BOY RESERVATION

Mr. WINDY BOY. Greetings, Senator.

My name is Alvin Windy Boy and I want to acknowledge Senator Baucus and his presentation this morning, our Senator from the great State of Montana.

I applaud my Senator for the commitment that he is creating with Indian country, particularly in Montana in regard to the issue we are discussing here.

My name is Alvin Windy Boy, Sr., Chairman of the Chippewa Cree Tribe of Rocky Boy's. I am presenting my testimony today on behalf of my own tribe and several other Montana tribes, namely the Blackfeet Tribe, the Assiniboine and Gros Ventre Tribes of Fort Belknap Reservation, the Northern Cheyenne Tribe and the Assiniboine and Sioux Tribes of the Fort Peck Reservation. I want to thank you for this opportunity to present comments on welfare reform in Indian country.

I would like to commend the chairman and the vice chairman and the members of the Indian Affairs Committee for conducting this hearing on the implementation and reauthorization of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, generally referred to as the Welfare Reform Act.

I again want to commend our Senator, Max Baucus, for listening to the views of tribal governments and for introducing S. 2484, the American Indian Welfare Reform Act of 2002.

As a side note, in Indian country, particularly in my area, we encourage our young children from infancy to that first period of adulthood. As parents, as this little child begins that step toward walking, the first step in life, we offer that baby encouragement. When we see the baby fall, we help and encourage him. That is how I look at the 1996 bill. Now we are coming into a different era after 5 years of passage of that.

My testimony will offer commentary on both welfare reform in general and S. 2484. It is important for this committee to receive the perspectives of tribal governments that have been successful in operating tribal temporary assistance to needy families programs as well as those still under State TANF plans.

As Congress deliberates on legislation to reauthorize the Welfare Reform Act, it is important that you be vigilant in keeping foremost in your minds those American Indian children, women, and families that have endured and continue to survive on truly minimal means. Our tribal governments are trying to pick up the pieces and help in the daily struggles of what are, in reality, the most impoverished people in this country, members of federally-recognized Indian tribes.

You will hear today from representatives of tribes operating their own TANF programs and I am here to provide the perspective of the non-TANF tribes, those tribes that for a number of reasons cannot or have not chosen to operate tribal TANF programs. Of the issues relative to tribal participation in welfare reform, although there are other related areas of discussion, we have chosen the areas of governance, program delivery and service, data control and the impact as primary.

Existing methods have been tested and proven to only widen the gap between tribal-State relations and hinder the process of American Indians and families becoming self sufficient with meaningful and productive lives. Without the solid foundation of data, evaluation and research, long term change within the welfare system will be minimal at best.

The governance aspect, welfare reform with its mandate for decisionmaking at the local level has fundamentally altered the manner by which governmental entities and affected individuals relate to one another. Montana's Indian tribes still need to see a level playing field relative to decision making. Due to the nature of the Federal block grants within the Federal, State, and local government systems, and the fundamental efforts to establish local control, the present system deters from the policy of government to government relationship between tribes and States and tribes and the Federal Government. Consequently, the decisionmaking authority of tribal governments is undermined.

Because there is no set protocol for policy setting between the Montana DPHHS, county offices and tribal governments, the bulk of policy decision and funding discretions remain with DPHHS and county offices and we have little input as tribes.

In addition, the design and nature of the Federal block grant system has limited consultation between tribal and State governments on State TANF plans. The Montana State Plan has given county offices primary control, thus creating an uneven tripartite relationship between State, tribal, and county governments.

It is the concern of the five non-tribal TANF tribes in Montana that tribal governments should not have to be under the thumb of county governments. Consultation involving tribes should remain at the highest level of State and Federal Government.

I want to offer some comments on the legislation introduced by Senator Baucus, the American Indian Welfare Reform Act of 2002, S. 2484. These comments were adopted at a recent meeting of the Chippewa Cree Tribe, the Blackfeet Tribe and the Assiniboine and Gros Ventre Tribes for Fort Belknap, Northern Cheyenne and the Assiniboine and Sioux Tribes of Fort Peck. These tribes met last week in Great Falls, MT to go over the draft concepts of the Baucus bill and I have been asked to relay the following comments.

First and foremost, we strongly support the Baucus bill and hope that Congress will enact it as soon as possible and fully fund the costs associated with its implementation.

If the levels of funding and assistance proposed in S. 2484 had been included in PRWORA in 1996 and there is little question many tribes would have chosen to operate tribal TANF. As it stands today, only 37 plans representing 137 tribes have chosen tribal TANF. Within the State of Montana, there are 7 fully recognized tribes, Salish and Kootenai and Fort Belknap who operate tribal TANF.

The five Montana tribes that met last week hope that any legislation enacted can include the application of "Rural/Frontier Status" designations for tribes operating TANF programs in the same manner as those designations are presently awarded to States with high unemployment, limited accessibility to services, and that are geographically isolated. Those States get supplemental funds and tribes should be eligible for similar supplemental funding.

We strongly support the components of the tribal TANF Improvement Fund in the Baucus bill. These provisions recognize the fundamental weaknesses of the 1996 Welfare Reform Act and its treatment of Indian tribes and take positive steps to rectify those flaws.

We greatly appreciate some of the changes that Senator Baucus has made to the previous draft which reflect comments we submitted to his office.

The inclusion of the language indicating that tribes applying to operate a TANF program be given a priority and that tribes of all sizes receive funding and to maximize the number of tribes which receive funding are good provisions. We are also pleased to see recognition and acknowledgement that the 1994 figures compiled by States are not likely to be reflective of the true costs facing a tribe operating a TANF program. The $140 million allocated for tribes that can demonstrate a higher caseload than originally estimated is a very positive position.

Under the equitable access provision, we think Senator Baucus is on the right track relative to encouraging State/tribal cooperation and think it is a good idea to involve HHS in this but we think there should be a provision to require tribal concurrence in the State specific information on demographics and caseload characteristics of Indians served by State TANF programs.

Finally, again, we want to thank Senator Baucus for including tribal colleges and governments and ensuring they have priority for accessing the research dollars in the bill.

In closing, it is the consensus of the Montana tribes to support and endorse the proposed "American Indian Welfare Reform Act of 2002." Tribes must be afforded the opportunity to operate tribal TANF and provide for our own people. This legislation provides incentive and opportunity to do this.

Montana tribal governments are committed to strengthening tribal families, protecting the interests of tribal children and developing economically prosperous and culturally thriving community.

In closing, a lot of families that fall through the cracks ultimately end up in my office for basic needs, basic necessities. Some of us may think that acquiring pampers is not a big deal but to that woman and child, it is a big deal. The list goes on. If they are not able to receive assistance by some program, ultimately they end up on my door or my colleagues.

With that, I thank you.

[Prepared statement of Mr. Windy Boy appears in appendix.]

The CHAIRMAN. Thank you very much, Mr. Chairman.

Ms. Plummer, would you care to add anything?

Ms. PLUMMER. No.

The CHAIRMAN. I will now call upon tribal secretary, Mike Peters.

STATEMENT OF MICHAEL PETERS, TRIBAL SECRETARY, SISSETON WAHPETON SIOUX TRIBE

Mr. PETERS. Good morning.

We do have a prepared statement and I will read part of the first page. I will then skip to the third page which has four paragraphs I want to read.

The CHAIRMAN. I can assure you that your full statements are all going to be in the record.

Mr. PETERS. I bring you greetings from the Sisseton Wahpeton Sioux Tribal Council. My name is Michael Peters, the elected tribal secretary of the Sisseton Wahpeton Sioux Tribe. I thank you for the opportunity to present testimony on the tribal concerns regarding the reauthorization of the Federal welfare reform law, Personal Responsibility and Work Opportunity Reconciliation Act.

We need to continue direct funding for our tribal employment programs. We do not receive funding from the State of South Dakota for these services and we do not receive sufficient tribal TANF funds to be able to provide the services necessary to move our people from welfare to work. Any reauthorization of the welfare reform law must provide for the direct funding of tribal employment services.

We need support for tribal employment services at an adequate level. We support a tribal employment services program that includes the funding we receive from the Native Employment Works and the Welfare to Work Program and an increase necessary for us to serve clients with more barriers to employment.

The tribe, under its Child Support Enforcement Program, can now make non-custodial parents accountable to support their children. However, many need basic education and skills training which will enable them to find and retain employment so they can provide the needed support. Simply continuing the NEW program for another five years at its fiscal year 1994 funding level will not give the tribes the capacity to provide services to non-custodial parents.

We need the ability to integrate all the necessary services into a single program that makes sense to the tribe and works effectively at the reservation level. The tribe has tried to do this under Public Law 102–477. The integrated approach is essential to the tribe's continued success with welfare reform. Program integration is a goal of the President's welfare reform proposal. However, we and other 477 tribes have been hamstrung by objections raised by HHS staff to integrate TANF and NEW with our other programs under a single plan, single budget and single report. The welfare reauthorization law must include strong language that HHS must respect our ability to use 477 as a tribal tool for program integration.

We need a requirement in the law that HHS and all other Federal agencies involved must consult with the tribal governments on regulations and policies governing the various Federal programs. The tribes cannot afford to have plans undermined by Federal rules adopted without our input which makes our job impossible.

Part of that goes back to this past year and some of the problems we have had with HHS. As one of the first tribes to adopt 477, we came here to Washington to have continued meetings with HHS and they didn't show up, much like today. It really puts a burden on the tribes. A lot of the tribes don't have the funds to keep traveling to Washington, DC to meet with Federal programs that don't show up. All the tribes have spent thousands of dollars, probably tens of thousands, coming here for no shows on HHS's part. That is why I was disappointed today with their lack of participation.

Finally, our tribe has preliminary reviewed Senator Baucus new bill and we like what we see. We think it moves in the right direction of many of our recommendations. We thank Senator Baucus and encourage this committee to consider his proposal carefully.

There is more to the statement and you have it on record but I just wanted to make a few comments before my time is up on a more personal level. Like the chairman, I also see a lot of our tribal membership come through my office for pampers, for a tank of gas or just basic necessities that we don't look at twice.

Richard Kebel, our TANF program manager, has an office right across the hall. He has nine of our tribal members working for him under 477. That is more like a one stop for a tribal member. Where before they were hitting the different places to go to these different services, now we have it all in one place, so it makes it better for them.

As tribal leadership, we see what our tribal members have to live with every day and I can't totally blame our tribal membership for the way it is. I always think the modern day culture is still new to them, they are still trying to learn how to be—I don't know if you want to call it American or civilized. They are still learning how to work, how to be productive. IF they come from a generation of I don't know if you would call it non-workers or genocide or what we want to call it, but I don't totally blame our tribal membership for the way they are. They are still getting used to how to work and how to be Americans I guess you can call it. It is still foreign to a lot of them. A lot of them still don't understand a lot of English, or the American way of how we have to do things and how the American people want us to be. They don't know how to do that yet.

By doing this, by training them to work, by giving them the opportunity to do this, we are going to better integrate them into the tribal system and the American system.

I appreciate and the tribes appreciates this time to speak to you directly. I thank Senator Johnson for his comments.

[Prepared statement of Mr. Peters appears in appendix.]

The CHAIRMAN. Thank you very much, Mr. Secretary.

Now, may I call upon Ms. Wall–McDonald?

STATEMENT OF TERESA WALL-McDONALD, SALISH AND KOOTENAI TRIBES

Ms. WALL-McDONALD. I am Teresa Wall-McDonald. I am enrolled tribal member of the Salish and Kootenai Tribe in Montana. I am the director of the tribe's Department of Human Resources which included TANF and many of the support services that are critical to family success.

This morning I thought my casual, outdoorsey, Montana look might give the Salish and Kootenai testimony an edge over other presenters, so you will have to tell me if it works. In reality, my suitcase was lost and I apologize for my informal appearance.

The CHAIRMAN. You look very beautiful.

Ms. WALL-McDONALD. My friends at Rocky Boy thought I should sit up here and say, this is what 41 percent unemployment looks like. [Laughter.]

It is a difficult thing to prepare 14 pages of written testimony and then be given roughly 5 minutes because TANF is such an important issue to Indian country. I cannot think of a more important piece of legislation, nor a more important program.

Today, I am representing over 1,800 adults and children who have received services from our TANF program. We began the program with 180 cases and 600 individuals and now have served 578 cases and 1,800 individuals.

The challenge is that tribal caseloads have grown. We meet the same work standards as the State and we have fewer resources. This is grossly unfair. We do the same amount of work and sometimes more with less money.

The second challenge is what do we do after families have worked hard, obtained a GED, enhanced their skills and there are no jobs? Indian people are not lazy. Our unemployment rate at Salish and Kootenai is 41 percent. I read the USA newspaper today and it reported a 6-percent unemployment rate, the highest since 1994. I thought here we are in Montana and we have unemployment rates from 41 percent to 77 percent. The greatest disappointment in Indian country is working hard having a family that makes positive changes and there are simply no jobs.

We have done a pretty good job with bundling occupations and leveraging employer support. Out of the 578 cases, 298 have closed and found employment. That is pretty good. The majority of these jobs have required some sort of employer incentive.

If I was the State of Montana program, I would qualify for a performance bonus when somebody goes to work but under the present regulations, the tribes don't qualify for those types of incentives.

When we consider what is most critical to the welfare reform success it is as follows. You must equalize the funding streams, allow tribes access to every source of funding the State is eligible for, allow the tribes to manage and administer food stamps and medicaid. Families who are struggling need those support services, so tribes should be able to administer those services in a tribal facility.

Consider waiving the match for high poverty, high unemployment areas for food stamps and medicaid. Make a serious substantial and immediate financial contribution to economic development now. If there are no jobs in Indian country, welfare reform will fail and the families will fail.

Increase the tribal setaside for child care. You can't work if there is no day care available. We would also like to see you remove the restrictions on TANF and new funds carryover to allow for any TANF-related activity. For those tribes that are working hard, doing well and have TANF carry over, those could become a source for economic development.

We would also like you to increase the access and funding for employment and training funds and bring back the competitive welfare to work grants.

We have analyzed and looked at the bill offered by Senator Baucus. We favor many of the initiatives. It provides solutions and it is forward thinking and takes a positive step for welfare reform in Indian country.

Again, we would like to thank you, Mr. Chairman, for allowing us to testify and again, I apologize for my informality.

[Prepared statement of Ms. Wall-McDonald appears in appendix.]

The CHAIRMAN. Thank you very much, Ms. Wall-McDonald.

If I may now ask a few questions. Chairman Massey, you indicated the State of Arizona withdrew your TANF funds?

Mr. MASSEY. Yes.

The CHAIRMAN. Did they also withdraw TANF funds from non-Indians?

Ms. NARCHO. Mr. Chairman, I am Colleen Narcho, executive director for the Department of Social Services which includes the tribal TANF for white, non-Apache.

The State had appropriated $1 million of TANF moneys to the 19 tribes of Arizona. However, after offering it for 3 years, they are not going to do that anymore because the moneys are going to be set into the deficit. These were moneys the tribes could use as incentives for like welfare to work programs.

The CHAIRMAN. Has Arizona stopped welfare programs in the State?

Ms. Narcho. No; they have not. They stopped the funding that was allocated for Indian tribes. They are not going to do that anymore.

The CHAIRMAN. Mr. Peters, you have had some no shows by the Government?

Mr. PETERS. Yes.

The CHAIRMAN. How many? One is enough but how many?

Mr. PETERS. There have been at least three and today, I was told they would be here to listen to the testimony, so I have to say four. They did have one show.

The CHAIRMAN. Would you send me an official letter indicating the times and dates?

Mr. PETERS. Yes; we can. After one of the no-shows, some of the tribes did get together and put together a format letter and we will send that to you.

The CHAIRMAN. I do not want a form letter, I want an official letter.

Mr. PETERS. Okay. We will send an official letter from the tribes.

The CHAIRMAN. It just happens by coincidence that I am the senior member of the Appropriations Committee on Health and Human Services, so I think they will listen to me.

It appears that in every case here, you may have training programs but no jobs. The States control the funds. I have looked over the Baucus bill and like all measures, it may not be perfect, but I think it comes closest to addressing many of the problems set forth in your testimony.

I would suggest that all of you send letters of encouragement and support to the committee and you can send your letters to Chairman Max Baucus, Senate Finance Committee, Washington, DC 20510. Instead of sending one resolution by the tribal council, send 100 letters. Instead of the NCAI sending just an NCAI resolution, have every member send a letter because one way constituents indicate interest is by communications.

I would suggest that you begin a writing program. Your letters do not have to be fancy, and the title of the bill is, "American Indian Welfare Reform Act," S. 2484 and send your letters to Senator Max Baucus, chairman, Finance Committee, U.S. Senate, Washington, DC 20510. He will be very pleased to receive these letters.

Incidentally, to show you the problems we have, even assuming the Baucus bill passes unchanged, the amount involved is at least $635 million. It has to go through the Finance Committee. I do not serve on that committee but I will do my best. As you know, these are difficult times for securing additional resources but I think this should be a high priority.

With that, I would like to thank all of you for participating and I am going to go back to Rocky Boy one day soon.

Thank you very much, all of you.

May I now call upon the director of Welfare Reform Program, National Congress of American Indians, Sarah Hicks; the director of the Michigan Family Independence Agency and president of the American Public Human Services Association, Doug Howard; the executive director of the Torres Martinez Tribe TANF of Thermal, CA, Virginia Hill, accompanied by Apesahnakwat; and the president of the National Indian Child Care Association, Confederated Tribes of Warm Spring, Julie Quaid; and representing the National Indian Child Welfare Association of Portland, Terry Cross.

May I now call on Director Hicks.

STATEMENT OF SARAH HICKS, DIRECTOR, WELFARE REFORM PROGRAM, NATIONAL CONGRESS OF AMERICAN INDIANS

Ms. HICKS. Good morning.

I would like to thank you for inviting NCAI to testify on the implementation and reauthorization of the Welfare Reform law and commend Senator Baucus for the introduction of S. 2484.

My name is Sarah Hicks and I serve as director of the Welfare Reform Program at NCAI. Over the past 5 years, I have had the remarkable opportunity to work with tribes throughout the country on the implementation of State and tribal TANF programs and a host of related programs.

For over 3 years now, NCAI has facilitated a work-group of TANF tribes and coordinated a peer learning process that was mentioned earlier. For the past 2 years, tribes have been spending considerable time and energy on discussions focused on the reauthorization of this important law.

Through our partnership with the American Public Human Services Association, APHSA, NCAI, and TANF tribes have made considerable headway in finding common ground between States and tribes on many reauthorization issues. This morning I am here to share with you three brief themes that I have gathered in my work from the 36 tribal TANF programs, the many tribes still served by State programs and a variety of State TANF programs.

First, tribes support welfare reform efforts. The concept of welfare reform resonates with American Indian Alaska Native tribes. Tribes are in favor of individual responsibility and work coupled with appropriate community supports. Proponents of addressing issues comprehensively with a whole systems approach and looking holistically at family needs, tribes show a strong preference for the flexibility to facilitate locally designed and administered programs that fit the unique needs of their communities.

In many ways, the welfare reform law provides tribes with a good blueprint for change but as evidenced by high poverty rates and below average work participation rates, we would have to say there is not enough change in Indian country.

This leads me to my second point. The key to meaningful reform in tribal communities is flexibility for States and tribes. Too often welfare reform is thought of as encompassing only TANF and too often tribal options around welfare reform implementation are seen by both tribes and States as either a tribe receiving Federal funds for the administration of TANF or the tribe continuing to receive TANF benefits and services from the State.

In actuality, there are a whole range of options between the decision to TANF or not to TANF. The flexibility will be critical to the potential of many States with large Indian populations to meet the proposed increased work requirements and work participation rates. Tribal TANF programs also need to maintain the flexibility that we have, the flexibility to define our service area, service population and work activities, as well as to negotiate work requirements and work participation rates.

As you may be aware, tribes in Alaska face a unique limitation in their flexibility of TANF. The current law gives authority to administer TANF to the 12 Alaska Native Regional Non-profit Corporations instead of directly funding the federally recognized tribes in Alaska.

This has a dramatic impact on tribal governments because Alaska's 227 tribes make up about 40 percent of all tribes in the United States. Additionally, a second provision requires tribal TANF programs in Alaska to be comparable to State operated TANF programs. These provisions hinder self determination and the ability of tribes in Alaska to make tribal specific program decisions. The comparability requirement in particular flies in the face of the concept of block grants as well as tribal sovereignty.

My third point is that the notion of welfare reform is really much broader than TANF. TANF is just a flexible funding stream. In fact, we should think about welfare reform in Indian country as having four components: Financial assistance programs for poor and fragile families, including TANF, child support and foster care; related support services that enable recipients to get and keep a job such as child care, transportation, mental health care, substance abuse treatment, and other needed support systems; third, job training programs to build skills for work, qualifying recipients for available jobs; and fourth, tribal economic development to provide recipients jobs at which they can earn a living wage and become self sufficient.

The importance of economic development, as mentioned earlier, to the success of welfare reform implementation cannot be overstated. Without jobs, welfare reform will fail. A two-pronged approach is necessary. First, tribes need more flexibility in using their existing resources. Legislation like S. 3443, the Indian Tribal Development Consolidated Funding Act, is one such tool.

Second, tribes need additional resources, both for economic infrastructure, transportation systems and technical assistance for concrete activities to create a more business friendly environment on reservations, and job creation through the expansion of tribal authority to issue private activity bonds for reservation-based economic activity.

In closing, there is no doubt that tribal TANF programs have been successful in creatively addressing the many challenges they face. However, to really bring the benefits of welfare reform to Indian country, reauthorization must address four primary issues.

First, building tribal TANF infrastructure by providing resources for tribal TANF startup, management information systems, and staff training.

Second, assessing sufficient ongoing TANF administration resources either through providing incentives to States for adequate State contributions to tribal TANF programs or through making a Federal commitment for full funding of tribal TANF programs.

Third, establishing equity for tribal TANF through access to the same resources State programs enjoy such as the high performance bonus, the contingency funds, technical assistance and research dollars.

Fourth, economic development in Indian country with increased flexibility to use existing resources and increased resources for development infrastructure and job creation.

Thank you very much.

[Prepared statement of Ms. Hicks appears in appendix.]

The CHAIRMAN. Thank you very much, Ms. Hicks.

May I call upon Director Howard.

STATEMENT OF DOUG HOWARD, DIRECTOR, MICHIGAN FAMILY INDEPENDENCE AGENCY AND PRESIDENT, AMERICAN PUBLIC HUMAN SERVICES ASSOCIATION

Mr. HOWARD. Thank you, Mr. Chairman. I want to thank you and the members of the committee for the opportunity to testify today here on behalf American Public Human Services Association on this very important issue.

Similar to the way the broader TANF program has been implemented, tribal TANF has also been implemented in a variety of ways throughout the country with really no one model of State/tribal interaction or coordination. Although over 170 tribes and consortiums have taken on the administration in 15 States, there really aren't many additional State contacts and contracts with individual tribes which either provide the opportunity or directly provide services to Native Americans through their State or county TANF program.

I would like to highlight today in my brief comments the opportunity we think TANF has created for States and tribes to come together and reevaluate the delivery of services in Indian country. For our Association of State Human Service Commissioners and TANF Directors, the dialog and discussions we have been having with NCAI over the last year have really helped open the door for a broader and new working relationship between our members and NCAI. Quite frankly, it has been very educational for my colleagues and I. I think we really do see great opportunities to build successes for each other out of this.

In December, APHSA, and NCAI came together for 1 day long meeting to identify some of the issues around TANF reauthorization. Since then we have formed a joint work group and had several in-depth conference calls and discussions on TANF legislative proposals. In general, I think it is important to highlight that when State and tribal TANF administrators come together, we have found may not walking in knowing if we would, but walking out finding we really had very similar concerns around what was needed for success. If I could boil those down into two key themes, and I think you have heard those today, those would be flexibility and adequate funding.

We also agree there may be some additional issues that face tribal TANF programs. It may be unique to tribal TANF that maybe States have not directly faced before.

On the issue of the Federal commitment, we generally agree I think that there really is a need for greater Federal Government support to support the tribes in administering successful TANF programs. Most tribes starting their TANF programs really have little or no established infrastructure and don't have that Federal support to create it.

You have heard that today and I know even in my own State, we have 12 federally recognized tribes and 4 historic State tribes. Based on our discussions with them, we think there are probably only two that would say they actually have what they believe would be an adequate information management system plus staffing. Quite frankly, one of those is making subsidy payments to members of the tribes in such a way that they probably have a very small TANF population. That really limits the opportunities for the other tribes to do that.

Capacity grants, technical assistance and State MOE dollars have been evolved in work between States and tribes. It is not consistent around the country. I think if you talked to all of us you would hear that in some States the relationship is very strong and in other cases, you would hear there is clearly room for improvement. These arrangements exist on a State by State basis.

Short of the opportunity to get full funding, which I know is a challenge, there really are some things we can focus on. Some I just mentioned. One would be specific grants around the capacity building to build that infrastructure. The second would be around the technical assistance to help get the knowledge and best practices in place; and third, a theme you have heard today around economic development.

A second opportunity is to try and create an adjustment in the tribal TANF Grants Program to recognize any growth in size or requirements for additional resources.

Finally, and I think it has been suggested, Federal incentives back to the States to ensure the States are contributing and supporting the tribal efforts in the TANF program and in other employment-related programs would be advantageous.

Another area that NCAI and APHSA came to agreement on was that the Federal Government has not always been able to support an environment that fosters a collaborative relationship. We think there really can be a better relationship among all three levels of government and are committed to work on that.

We would also encourage mutual consultation and development of State and tribal TANF plans. I think this tends to go on in most States but on the State side, to ensure we are not making duplicate plans when tribe may be making plans for a new tribal TANF program would avoid duplication of effort. I would hope that States would be in a position to contribute to their planning.

Another area of agreement between NCAI and APHSA is the high joblessness issue and the need for economic development. You have heard a lot of statistics on the unemployment rates today, so I won't bother repeating them, but I think the numbers speak for themselves. It is clearly a challenge in both their ability to meet Federal work participation requirements, thinking about time limits and the kinds of triggers and exemptions you might think about around those time limits and work participation rates.

The final subject matter I want to touch on, while slightly outside the scope of TANF, I feel it is important because it gets back to strengthening families. I think the tribes, States and everyone else would speak that whether you are doing work in the Indian nation, doing work in a local government or State government, this really needs to be about strengthening families.

This subject area is the area of title IV–E funding. one of the things we have worked with a lot in Michigan is child welfare services with tribes. We have some great success stories but we think there are some opportunities to directly flow some funding to the tribes and they could perhaps integrate some of their tribal TANF and child welfare services.

In closing, I would like emphasize that APHSA believes this reauthorization is just a first step between tribes and the States in a long relationship of working so that Native American communities can experience the kind of success they deserve. I hope that cooperation and collaboration can continue to be the theme we have.

Thank you for the opportunity to testify and I look forward to any questions you might have.

[Prepared statement of Mr. Howard appears in appendix.]

The CHAIRMAN. Thank you very much, Mr. Howard.

Now may I recognize Director Hill.

STATEMENT OF VIRGINIA HILL, EXECUTIVE DIRECTOR, TORRES MARTINEZ TRIBAL TANF, ACCOMPANIED BY APESAHNAKWAT, PUBLIC RELATIONS, TRIBAL TANF, CA

Ms. HILL. Good morning.

My name is Virginia Hill. I am executive director of the Torres Martinez Tribal TANF Program located in Southern California near the Salton Sea. We serve nine tribes in Riverside County and we are the first tribe to serve a major urban Indian population in Los Angeles County for a total of 5,358 families.

Today, I am representing the three tribal consortiums in California—Torres Martinez, the Southern California Tribal Chairmen Association, comprised of 17 tribes in San Diego County and one tribe in Santa Barbara, the Bishop Consortium of three tribes and the Washoe Tribe of Nevada and California for a total of 32 tribes.

We provide the following unique services of the four areas of tribal TANF. First, cash assistance. We have an EBT system that we have developed and are currently working out the kinks. We require substance abuse testing and sanctions for nonparticipation but using a voucher system which makes sure the children are not left out. We have a clothing allowance for school aged children on TANF. We provide training and education and have computer labs at the eight sites to teach basic computer skills. We have long distance learning and tele-conferencing and are promoting small business and entrepreneurship with our recipients. We propose to serve the non-custodial parents with training and education.

As far as teen pregnancy prevention, we have a baby think it over program, we have pregnancy aprons at both the male youth and the females have to wear. We have a cash for good grades incentive to keep the kids in school, $50 for every semester for a C average, B average is $75 and $100 for A. We are also able to track the students if they are falling below to help them with tutoring.

We are having our ninth annual Indian Child Welfare Conference next week and we have our teen youths from Los Angeles area that are going to put on a skit called "Teen Discovery Dating." We have a marriage promotion officer who is doing research into customs and traditions with the elders of the Cahuilla Tribe and are also looking to change the county language to allow tribal definition of marriages. Our program is called Snagging for Life. So far, we have had two marriages, one near miss, a couples conference, and we are planning a singles dance at the end of this month.

We promote traditional marriages by providing a maximum of $1,500 toward birdsingers traditional dress and traditional food if they are married in the traditional way and also a $2,000-marriage bonus but they can only use it one time.

The CHAIRMAN. One time.

Ms. HILL. We are anticipating starting fatherhood activities shortly.

All these programs are possible because the State of California provides 100 percent matching funds.

Three days ago, the California Tribal TANF programs met with the State Department of Social Services to brainstorm on incentives for all States to provide 100 percent match to all tribes if they chose to administer a TANF program. This concept is new and tribal organizations and States have not had a chance to review. Unofficially, the State of California supports this. Of course this has to come from the Governor.

Currently, there are 36 approved tribal TANF programs and there and there are 36 pending programs. We believe the major reason more tribes do not assume TANF is because of lack of a State match. The State incentive program we are proposing is basically first maintaining Federal funding and offering States a credit that will offset any impact that may be imposed on a State for noncompliance with Federal regulations at a rate of $2 of credit for every dollar contributed to a tribal TANF program.

Another area I would like to address is the food stamp and Medicaid problems. We are proposing direct funding for both programs in a one-stop shop. We have a resolution passed by NCAI in 1998 that supports this concept. Right now we are proposing a demonstration with the Department of Agriculture.

Three years ago, we tried working with the Southern California Tribal Chairmen Association. We proposed a demonstration project and were turned down for three reasons. Basically, they thought we didn't have the infrastructure capability, we had a low caseload, only proposed 600 families to serve and it required a 25-percent match.

There is recent and ongoing documentation verifying that Indians and their families are under-represented in both food stamp and medicaid programs. Tribal TANF participants must fill out one application at the tribal TANF site on the reservation, travel 50 to 100 miles to the nearest welfare office to fill out a similar application for food stamps and medicaid. We are talking about four additional questions for food stamps and six additional for medicaid.

Exposure to non-traditional food has resulted in high diabetes in Indian communities and at present, most commodity programs on Indian reservations are successful because they are easily accessed by tribal people. There was a study done by Southern California Indian Center a few years ago that showed at the end of the month when the diabetes patients ran out of money, they were using food commodity and their sugar levels went up.

When a program comes to an Indian reservation, the community takes full ownership and watches it closely. We know there are many considerations with the fraud of food stamps right now.

Another area we would like to address is the waiver of all matching fund requirements for all welfare-related programs, including the Food Stamp Program which requires a 25-percent match, the Access Transportation Program which requires a 50-percent match; the Foster Care Direct Fund which require a 25-percent match; and the Child Support Enforcement which requires a 25-percent match. All are disincentive to tribes to take on these programs.

I had the opportunity to look at the proposed Baucus bill and I address the first issue regarding $120 million set aside for tribes. I have some problems with that. First of all, this is $120 million of new moneys, the percentage with the State MOE support would be funded has not yet been defined, and it is a possibility that the tribes could be funded at 80 percent. In California, we receive 100 percent.

The proposed language limits the number of tribes to apply. What happens when these funds run out? Since we are receiving 100 percent, if we apply to the same amount because of the California deficit, we assume the State may say we need to go to the Feds to get our MOE share. If this is done, then California and Nevada tribes will take $40 million off the top, the Navajo Tribe would take $20 million which would leave $40 million for distribution with the other tribes.

The proposed language further limits the number of participating tribes because in order for new tribes to be able to access a portion of the proposed funding, lobbying will be required to increase the amount of appropriated funds. In addition, the proposed language did not address tribes needing to amend their plans to include new tribes or service area.

If cutbacks occur across the board, all tribes will be penalized regardless of State MOE support capability.

Also, would this be on a first come, first served basis? The State of California supports and backs our concerns, unofficially of course.

Also, access, I would like to include where they require HHS to convene a new advisory committee on the status of non-reservation Indians, I would like to include language that would include reservation-based Indians not being served by a tribal TANF program.

Finally, I would like to invite you to the first annual Tribal TANF Best Practices Training that is going to be held in Los Angeles on May 24 and 25. At that conference, we will address the lack of a national forum for tribal welfare reform.

Finally, I would like to leave you with this, the words of Tribal Chairwoman Mary Belardo, "Tribal TANF is our people helping our people."

Thank you.

[Prepared statement of Ms. Hill appears in appendix.]

The CHAIRMAN. Thank you very much, Director Hill.

Does Mr. Apesahnakwat wish to testify?

Mr. APESAHNAKWAT. Thank you very much.

I very much appreciate the opportunity to say a few words before the committee this morning.

As you know, I have been the chairman of the Menominee Tribe for more than eight terms, spanning a 25-year period. I am Public

Relations Director for the Torres Martinez TANF Project in Los Angeles. I still serve on the tribal council, however.

I have to tell you that much of what you have heard here today is what I have heard all my life and I am sure you have longer than me as you have been in the Senate for 42 years. This is a sad refrain and continues to be. Since my employment with the Torres Martinez Project, I have come to understand and be able to focus that a lot of tribes, including my own, did not participate in the Tribal TANF Program because of the disparity and the hostility in States in which they reside.

It is ironic that my Governor is now the director of the Secretary of the Department of Health and Human Services here in Washington and we can't even get to meet with him or the representatives interested in fixing the tribal TANF.

As Director Hill indicated, we have proffered a formula solution for the matching funds of the MOE and the matching funds of States because in order for us to get a bill through we understand we have to placate States and give them an incentive large enough.

Senator those penalties for noncompliance with 14 regulations in the statutes accrue to over 43 percent of the total grant that States receive, 21 percent directly for work participation. That is an incredibly significant number. Our formula says for every dollar they contribute to tribes, there will be $2 on $1 offset on these penalties assessed to them.

Moreover, if we are going to do that, I will give you an example. In South Dakota, they have indicated there was 80 percent of TANF recipients who are Indians. If they allowed those tribes to go to Washington and get the financing to run a tribal TANF, that eliminates the State's concern for delivery and service to those people under the current administration and saves them that 80 percent.

Under our formula, when they match that, that accrues to 140 percent. My math may be a little bit off, but 130 to 140 percent, these are credits they receive so that any of these hard to reach, hard to service areas such as reservations are, they will not be penalized or their grants will not be penalized, so this formula doesn't require new money. Yet it tweaks the already existing program to require our motivate States with an incentive to service tribes with tribal TANF because it is we, as you said at the beginning of this hearing. We may have the solution for Indian country because we work and live there, we grow there, we are tribal leaders who struggled with this dilemma for all our time.

We would ask this committee to review this proposal we have put forward and we have had much success. As you know, there is a House companion bill offered by Congressman Herger from California. We have been taking this formula around to the House and Senate side in the hopes of familiarizing our Senators and Representatives in support of this formula.

We think a lot of the tribes and a lot of the organizations who testified here today, we have talked to them but they had already written their testimony and submitted it. We would ask to give this formula a very close look because we like Senator Baucus' bill and we think if we supplant the new money and let 580 Federally recognized tribes fight over that $100,000, this is a much better alternative that works with already existing money, gives the States the incentive and motivation to cooperate and work along with tribes so that the objective of this legislation was to provide assistance to all Americans for welfare to work and this would make this initiative work.

I thank you for this time to be able to impart some of my concerns on this formula.

The CHAIRMAN. Thank you very much, sir.

President Quaid.

STATEMENT OF JULIE QUAID, PRESIDENT, NATIONAL INDIAN CHILD CARE ASSOCIATION, CONFEDERATED TRIBES OF WARM SPRINGS

Ms. QUAID. Good morning.

My name is Julie Quaid and I am a member of the Confederated Tribes of Warm Springs, Warm Springs, OR. I have worked for my tribe for 22 years in the area of early childhood education and child care. My background is in education.

I am also the chairperson of the National Indian Child Care Association. The Association is the representative body of tribal grantees of the Child Care and Development Block Grant; 262 grantees representing more than 500 tribes and Native organizations received Child Care and Development Block Grant funds in 2002.

I would like to thank you for the opportunity to join you today to share comments from the National Indian Child Care Association about the importance of quality child care in Indian country. We appreciate your commitment to ensuring that the needs of our tribal children and families are not overlooked during the reauthorization of welfare reform legislation and the Child Care Development Block Grant Act.

The U.S. Government affirmed its trust responsibility toward American Indians and Native Alaskans and Hawaiians through direct funding of the Child Care and Development Block Grant to tribal governments supporting tribal sovereignty and local control of programs for tribal and native citizens.

Tribes must continue to administer these programs to meet the unique needs of tribal communities. As the Child Care and Development Block Grant is reauthorized, we urge you, the members of the Senate Committee on Indian Affairs, to demonstrate your leadership in ensuring that all provisions in proposed child care reauthorization bills will ensure direct access to funds for tribes.

Since the passage of the Personal Responsibility and Work Opportunities Reconciliation Act of 1996, new investments in child care have given tribes the opportunity to expand their child care programs. We find, however, that these investments are not sufficient to meet the needs of Indian families. Nationally, statistics indicate that only one in seven children eligible for child care assistance is receiving that help.

The Child Care Coordinator from a tribe in California indicates the tribe has only enough funding to operate a child care facility for 15 children, yet close to 400 children in the community could benefit from a tribally-operated child care program.

With the poverty rate approaching 50 percent in Indian country, and nearly 54 percent of Indian children being born to unwed mothers, child care funding is critical to families who are working and transitioning off public assistance to pursue work and educational opportunities. Helping pay for child care is critical to some low income families' ability to obtain and retain employment and support their families while they work.

Thirty percent of tribal grantees receive less than $60,000 annually to provide child care services; 45 percent of tribes receive less than $100,000 in Federal child care funding. With current funding levels, tribes are struggling to provide financial assistance to low income families and ensure that child are in much needed quality child care environments.

The cost of care nationally averages $4,000 to $10,000 per year for a pre-school child. It is evident that current funding is significantly inadequate to meet the needs of the Indian community. Tribes currently receive 1 to 2 percent of the Child Care and Development Block Grant funds. The number of tribes participating in CCDBG has increased from 226 in 1994 to 262 in 2002. Tribal child counts continue to increase each year as tribal populations grow.

The 1995 U.S. Census report of population projections indicates the American Indian population is expected to make up an increasing share of the U.S. population. As the population continues to grow, an increasing number of Indian families will be in need of child care services for without adequate child care, which enables parents to work, the aim of self sufficiency for all types of families will not become a reality. An increase in the tribal setaside is essential for continued services.

Cherokee Nation in Oklahoma is currently providing child care assistance to over 3,000 working families annually. In fiscal year 2001, the Cherokee Nation's monthly family caseload increased by an average of 26 percent. Current funding levels will not allow the continuation of the same level of services. The result is tribes will reduce child care service.

The tribal child care administrators are currently in the process of developing new eligibility guidelines for families raising income guidelines and family share for the cost of care so that they will not be forced to develop a waiting list for families needing support to maintain employment. This places a huge financial burden on families who are already struggling to make ends meet. These families are the working poor.

Unlike States which rely heavily on transfer funds from TANF and use funding from the State tax base to supplement child care services, most tribes rely solely on the CCDBG for child care funds. Without additional funding, tribal governments will be unable to continue to provide assistance to eligible families and to ensure that all families have access to quality child care.

Already tribes have been forced to make cuts in tribal programs. A tribe in New Mexico had to eliminate all school age care last year due to limited funds. Even though they gave advance notice to families, alternate care options were not available to this community. Many of those children who had been in appropriate school age environments became latch key kids or were placed in substandard care.

The U.S. Government through the Constitution, treaties, Supreme Court decisions, executive orders, and existing Federal policies recognized the right of tribes to self govern. In 1996 during the reauthorization of the Child Care and Development Block Grant, law was enacted which is in direct violation of tribal sovereign powers. The Child Care and Development Block Grant Act, as amended, states:

> The Secretary of Health and Human Services, in consultation with tribes and tribal organizations, shall develop minimum health and safety standards.
>
> The National Indian Child Care Association strongly supports the assurance that Indian children are in healthy and safe environments. However, tribal governments must be the final authority in determining and developing the contents of the standards by which the child care facilities under their jurisdiction are governed.

The U.S. Government allows all 50 States the discretion of developing their own health and safety standards, yet has chosen to impose standards for tribal governments. Not only is this an imposition on tribal sovereignty, it is unrealistic to believe that one set of standards would be appropriate for 262 tribal grantees ranging in geographic location from Alaska to Florida.

The National Indian Child Care Association advocacy agenda for 2002 details additional provisions of reauthorization supported by the membership. The agenda includes the top seven recommendations voted on by the membership and I am requesting to submit the paper as part of the testimony.

Although our agenda did not speak directly to the provisions of quality care, we recognize there has been growing research and national attention focused on the impact of children's early experiences and their ability to learn and succeed when they enter school. With 65 percent of women with children under the age of 6 in the workforce, an increasing number of children are spending their early years in child care. As poverty rates in Indian country approach 50 percent, Indian children are at greater risk of poorer educational performance. Children of low income families score significantly lower on reading, math and vocabulary tests when compared with other children.

Quality child care experiences can significantly impact the abilities of Indian children to be successful later in life. Yet, with limited funding, tribes must often make choices between affordability and quality of child care for low income families. With insufficient CCDBG dollars, we must choose between offering financial assistance to low income families who need help paying for care or supporting activities to enhance the quality of child care and ensuring our children are in programs which provide for their positive development.

Tribes are currently required to spend a minimum of 4 percent of funds on quality activities. We use these funds to monitor facilities to ensure that children are in safe environments, provide information and referral to parents in need of child care, train child care staff and offer grants so that child care facilities can make needed improvements to meet standards of care and other activities to improve the quality of care for Indian children.

Sufficient funding should be available to help tribes ensure that Indian children are in high quality care and not choose between quality and the cost to families.

I thank you for this opportunity to share with you the challenges that face tribal communities as we put forth efforts to ensure that tribal families have the necessary tools to become self sufficient. Child care is a critical component in these efforts. Funding must be increased to help more low income Indian families afford quality child care and to work toward improving the quality of the child care providers which is critical to our children's development and future success.

We ask that you acknowledge the sovereignty of tribal and Native governments and the U.S. trust responsibility as you make the important decision to support and fund child care.

Thank you.

[Prepared statement of Ms. Quaid appears in appendix.]

The CHAIRMAN. Thank you very much, President Quaid.

Now may I recognize Mr. Cross.

STATEMENT OF TERRY CROSS, EXECUTIVE DIRECTOR, NATIONAL INDIAN CHILD WELFARE ASSOCIATION

Mr. CROSS. Thank you.

My name is Terry Cross and I am the executive director of the National Indian Child Welfare Association. I am very grateful for being asked to be on this panel today.

You have my prepared remarks but I want to share some very important information with you. The reason I am here is to ask for the support for Indian children and families, the most vulnerable of the people that we are talking about here today.

I want to urge the committee to support a correction to a long-standing oversight that actually does harm to our children and for this committee to take leadership and to thank you for your leadership on the title IV–E, Indian provisions that have been proposed.

The members of this committee signing onto S. 550, you, Senator Inouye, Senator Campbell, Senator McCain, Senator Johnson, Senator Wellstone, Senator Akaka, and Senator Dominici. We thank you all for your leadership in signing onto S. 550.

This is an important piece of legislation. For too long, our Indian children have been left behind. Title IV–E of the Social Security Act, also known as the Foster Care and Adoption Assistance Act, is the portion of Social Security that reimburses States for the cost of children in foster care of income eligible children. It also picks up the cost of some things like independent living and the adoption assistance programs.

That funding stream was put into place in 1980 but due to an oversight in the original drafting of the legislation, tribes were omitted from that funding stream. As a result, what is supposed to be an entitlement for all eligible children is not an entitlement for Indian children on reservations under the custody of a tribal court.

The only way those children can get access to those funds is through tribal/State agreements. We have learned over several years of trying to get those agreements in place, that they are not workable. Those agreements treat tribes as if they were licensed child placing agencies rather than governments. Most of those agreements pass through only the foster care payment to the foster parent and not the administrative or the training dollars. That is problematic.

Probably the most important thing that I tell you today is what the impact of this is on our children and families. I will give you an example. From Alaska from the Metlakatla Tribe, the tribe recently had an 11 year old boy whose mental health problems were so severe that he needed to be placed. They had no trained foster parents for therapeutic foster home. They had relatives who thought they might be able to provide care, but none of them felt they could protect this child from himself.

The tribe's only option was jail for this 11 year old boy so they could watch over him and make sure he wasn't going to harm himself or to send him far away and turn the case over to the State which would further complicate his mental health problems. There wasn't a good solution but there is a solution in this legislation.

Tribal access to title IV–E would allow for training to foster parents. It would allow for special rates to be paid to people to do therapeutic care. It would allow case workers to be trained to develop those resources for kids and to develop options.

In another situation, Navajo child, 3 years old, sexually abused, special needs child, none of her relatives would take her because of the nature of the sexual abuse. The tribal Child Welfare Department was able to find a single mom who would take care of her with no foster care payment because the tribe doesn't have access to any dollars to pay a foster care maintenance payment to a family. That 3-year old stayed in that home for 1 year and during that period that relationship grew and that foster parent wanted to adopt. So the child was moving toward adoption when that mom lost her job and could no longer provide care because she couldn't care for this child without resources, so the child had to be moved—a tragic experience in an already troubled child's life.

The solution is in this legislation, direct funding to tribes. The foster care maintenance payments, rates for foster care parents to be able to take care of children with special needs and the services the tribes can provide to families in helping knit together resources.

I want to tell you about Janet Gunderson at North Dakota, the Three Affiliated Tribes of Fort Berthold. Janet is a social worker there. A few years ago she was asked if she would temporarily take an infant who was medically fragile, a member of the tribe there, and she agreed to do so, thinking it was just temporary. Well, little children have a way of creating relationships with people who take care of them and Janet fell in love with Jordan and decided she wanted to keep her in her home despite the medical problems and moved toward adoption.

The placement had been done by the county, the county favored the adoption. Custody was transferred to the tribal court and the tribal adoption was put in place but when Janet went back to the county for access to adoption assistance, she was told no, the tribe didn't have access to that program and because the adoption was done in tribal court, it didn't qualify for adoption assistance. Janet had to try to find private medical insurance to cover an already existing problem for her new child.

Tribal operation of adoption assistance programs are essential if we are going to guarantee permanence for children.

I also want to tell you about a child in the Siletz Tribe in Oregon. Oregon does have a title IV–E agreement with the Siletz Tribe but it only pays the foster care payment. Unfortunately, the tribe experienced a traumatic need in their social services to reach program dollars and so tribal child welfare services were cut and funds were channelled into a program to deal with some very serious issues around youth suicide.

The child welfare caseload was picked up by inexperienced workers working in social services eligibility who had no training in child welfare and there was no money to hire a caseworker; 1 year later, tribal council discovered through many complaints from the community that several of the children in the caseload had not seen a caseworker in over 1 year.

This is not the way to run child welfare. It is also not conscionable for one group of children in the Nation because of the nature of where they live and that they are members of tribal communities under the custody of tribal courts that they are excluded from the rights and benefits and the funding to support their needs that all other children in the Nation have access to.

Why are we talking about it here at welfare reform? It is clear that the intent of welfare reform included the well being of children in the title IV–E system. The original legislation in 1996 says: “In order for States to receive TANF block grants, they have to operate title IV–E.”

The connection is clear but in that original legislation, there was not the political will to add Indian children to that formula. We think this is the time and we think this is the vehicle.

We commend this committee for its attention to this issue and we thank Senator Baucus for including title IV–E legislation in his bill, also including the title 20 provisions that are so important to our families, as well as those provisions that would help build capacity in our tribes to run these programs. This is essential legislation, this is about survival, this is about children growing up in families they can call their own and we really thank you for the opportunity to bring this to your attention today.

[Prepared statement of Mr. Cross appears in appendix.]

The CHAIRMAN. Thank you very much, Mr. Cross.

Listening to the testimony here brought to mind many issues that you touched upon. One, for example, sovereignty, only one of you mentioned sovereignty but the issue before us that is the most challenging that this committee has ever faced is sovereignty. Sovereignty is being very deliberately eroded, not by the Congress, not by the executive branch, but by the Supreme Court.

At one time, Indian country was able to look upon the Supreme Court as the saving grace, the sanctuary. Today, it has somehow changed. If you look at the decisions over the past 20 years, you will find that things have changed. Since Supreme Court decisions are usually read by lawyers and special interest groups, the general public is not aware of these changes. Very few people ever challenge Supreme Court decisions, and many think the Supreme Court is the voice of God.

Well, I have had several meetings with Indian leaders and they are convinced that this is the most dangerous challenge they have ever faced.

Second, it seems apparent that the plans we had in providing funds and grants to be authorized and administered by the States may work in some cases if the State organization or the government is not only knowledgeable but sensitive to Indian problems but not all States operate that way. So the measures we will be considering will provide to the extent possible and feasible direct funding to the tribes instead of going through the States.

Third, it takes a little while for all of us to catch on, especially when it concerns children. This might seem strange but up to 10 years ago, by the application of our laws, children were looked upon as little adults. As a result, even in the medical profession, if you looked at all the ambulances 10 years ago, the equipment they had was equipment for adults. You cannot shove a medical instrument down a little throat, especially if the instrument is made for a huge adult throat.

Finally, the Federal Government recognized that. It took us 190 years to realize that children are not little adults, they are babies.

All your discussions reminded me of my other assignment. I am chairman of the Defense Appropriations Committee. As you know, all of the men and women in uniform are volunteers, so the matter of recruitment and retaintion becomes a matter of major concern. In order to do that, we now find it necessary to have day care centers, so every military installation has a day care center; every camp has a day care center. We have places to train mothers, we have centers for exercising. The men say we need a gym. These things were not provided in the past.

It may interest you to know that Walter Reed Hospital, which is located a few miles from here, is the flagship of the U.S. Army hospital system and 17 percent of the beds are occupied by soldiers. The rest are occupied by dependents. To put it another way, when I was in the service 60 years ago, World War II, the regiments throughout the land averaged 24 percent of those who served in the Armed Forces had dependents, 76 percent were without dependents. They were all young kids. Today, it is the reverse, 76 percent have dependents, 24 percent do not have dependents. So there are more gynecologists than orthopedic surgeons, more pediatric surgeons than ophthalmologists.

The military is facing the facts of life. It took them a little while but we hope to catch-up with them and in the area of welfare reform in Indian country, the Baucus bill I think has answers to some of our problems. Mr. Cross mentioned a very important phrase, "political will." There are many ways of indicating political will and I tried to suggest to you that you all write in, not just a mimeographed resolution or a mimeographed card. Spend 5 minutes, take out a sheet of paper, use a pencil or pen and write out a note: "Dear Senator Baucus, you have a good bill here, I support it, we need it, sincerely yours."

That will mean more than an NCAI resolution, believe me. The resolutions are important but if they receive letters from their constituents, that will make it much more important.

With that, we would like to submit questions to you if we may. I have about 5 minutes left.

Ms. Hicks, you had some suggestions for the reauthorization of the welfare reform law. Would you suggest any limitations? Let me explain. Statistics can be misleading. According to the latest GAO study of unemployment in reservations, it averages roughly 50 percent.

Ms. HICKS. Right.

The CHAIRMAN. But then on the other hand, at one extreme you have tribes with 92 percent unemployment and perhaps on another reservation there is no unemployment. There are a few very wealthy tribes. Should there be a cap, a limit?

Ms. HICKS. In terms of the joblessness exemption that is in the law right now? Tribes have put a variety of proposals on the table and there is a lot of discussion about what the appropriate rate might be and to some extent arguing about whether it should be 30 percent or 20 percent is arbitrary, it makes very little difference to the people in those communities whether their joblessness rate is 30 percent or 20 percent, it is still just as hard to find a job. The realities of their life there in terms of their family income and poverty rates in those communities, the support services available are all negligible if you are looking at a difference like that.

There are some meaningful ways to get around the numbers game, to talk about things other than just what the joblessness rate is. Certainly that is one way to look at it, to try and have a target, kind of a joblessness rate, and that is useful.

I think on the other hand what tribes are really concerned about, the bottomline, is that for people who are meeting all the requirements of their program, for people complying with their individual responsibility plan, who are going to their substance abuse treatment, meeting with their case managers, for people doing everything we ask of them but there just isn't a job, it is really not fair, not fair to expect people to work in those communities when they are doing everything else that has been asked of them.

Certainly we have learned from history, from various policies that it is not appropriate, nor desirable, to force people to leave reservations but, to the extent we can provide the services in our own communities and have people comply with those services, maybe that is a better way to think about how to address the situation of compliance with programs. The intention is to rethink some of the issues around time limits and when it is appropriate to expect people to go to work. It may be more appropriate to really look at what people are doing in those communities, what kind of activities are available and if people are doing everything we asked of them.

The CHAIRMAN. One of the things you mentioned was food stamps. Is Indian country willing to accept liability for any additional cost of the food stamp program administration and be subject to the same penalties that States are subjected to?

Ms. HILL. Yes; we are. We thoroughly researched the issue of fraud and we have decided that yes, we can handle that. Also, we looked at what the administration cost for 600 families would be and it is less than $500,000, just for the admin cost. That does not include the cost for the benefit as well. I have a copy of the proposed administration plan but I didn't bring the policies and procedures part of it which is about 170 pages which I will get to you.

The CHAIRMAN. Ms. Quaid, the committee has begun studies on early childhood education. I am sorry we did not know about your interest in this but we had many witnesses in a hearing we held an that subject in April. We are of the belief now that education begins even before birth and we are trying our best to make certain that type of program applies not only in urban areas but also on reservations. So we will do our very best.

Ms. QUAID. Thank you. Many of the tribes enjoy program funding from HHS through Head Start and Early Head Start and MCH programs. I think the key is really tying all those together in a holistic way to look at the entire health and wellness of the whole family. We have always enjoyed a lot of cooperation from the Child Care Bureau in exercising the flexibility that we have had in child care in developing quality. One of the greatest changes they made during the life of the first PRWORA was the ability to renovate and construct facilities. That has made a lot of difference in Indian country and provided more quality child care slots for kids and of course contributing to the development of each child and also meeting the special needs of kids who are disabled or in foster care, or are adopted. A lot of flexibility is allowed in the child care development plan for tribes to address the needs of all the children in the community and all the families. So thank you.

The CHAIRMAN. Mr. Apesahnakwat, you spoke of your proposal. May I request that you submit that in writing to us because I have not seen your proposal.

Mr. APESAHNAKWAT. Yes, sir; we dropped it off with Janet Erickson, in your office, so yes, sir, we will.

The CHAIRMAN. She has not given it to me yet.

With that, I would like to thank all of you for joining us this morning. It has been a good morning as far as I am concerned. I wish we could spend more time but we have other assignments this afternoon.

I will keep open the record for 4 weeks. If you wish to submit addendums, further testimony, or if you want to make corrections, please feel free to do so. We will be submitting additional questions to you all if we may.

Thank you very much and with that, thank you.

[Whereupon, at 12:19 p.m., the committee adjourned, to reconvene at the call of the Chair.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF PERRY R. AHSOGEAK, VICE PRESIDENT OF PROGRAMS, COOK INLET TRIBAL COUNCIL, INC

Thank you, Mr. Chairman and members of the Senate Committee on Indian Affairs. My name is Perry R. Ahsogeak. I am the Vice President of Programs for the Cook Inlet Tribal Council, Inc. an Alaska Native non-profit organization that provides services within the boundaries of the Municipality of Anchorage and seven (7) surrounding Alaska Native villages. The Cook Inlet Tribal Council, Inc. administers Federal and State social services programs to the Alaska Natives and Native Americans that reside within our designated service area. Thank you for the opportunity to provide testimony on this very important legislation. I will focus my remarks on the following three issues; the need for a new Tribal TANF Improvement Fund, the need for a Tribal Employment Services Program and an increase in the tribal set-aside within the Child Care Development Funds.

State governments have benefited from decades of Federal investment in their administrative capacity, particularly in their information management systems. The tribes who elected to administer TANF did not have the benefit of the same degree of administrative capacity and experienced hardships associated with that deficiency. The reauthorization of PRWORA creates a tribal TANF Improvement Fund of $500 million (to be available for 5 years) to promote and sustain administrative capacity. This fund would be dispensed in three parts;

Tribal Capacity Grants: $250 million of the funds would be reserved for competitive grants to tribal organizations applying to operate TANF for social services program infrastructure improvement, with a priority for management information systems.

Tribal TANF Supplemental Grants: Population growth among Alaska Natives in Southcentral Alaska, primarily in the Anchorage area, significantly exceeds the national average. Tribal TANF allocations are based on 1994 population figures; $140 million of the fund would be reserved for supplemental grants to tribal TANF programs to be allocated among all tribal organizations with population growth between 1994–2000 that is above the rate of growth for the country as a whole. Funds would be allocated proportionate to size and service population on the basis of a formula to be determined by HHS in consultation with tribes and tribal organizations.

The funds would be distributed in two rounds. For fiscal year 2004 and fiscal year 2005, $30 million each year will be distributed by the initial formula. For fiscal year 2006 and fiscal year 2007, $40 million each year reserved will be distributed by a revised formula, to allow tribal organizations that take over operation of TANF after the initial distribution to also be eligible for funds. Up to an additional $100 million would be available to supplement tribal TANF allocations for those tribal organizations unable to obtain state maintenance of effort (MOE) support. Tribal organizations would request the funding as part of applying for a TANF program and would have to demonstrate their state is unwilling to provide funding. Tribal organizations already operating TANF programs without state MOE funds would also be eligible to apply for funds.

Technical Assistance: HHS would receive $10 million to provide technical assistance to tribal organizations. At least $2.5 million of these funds would be reserved to support peer-learning programs among tribal administrators and at least $25 million would be reserved for grants to tribal organization to consolidate feasibility studies of their capacity to operate TANF.

The second issue I will address is the need for a new Tribal Employment Services Program. Consolidating the existing Tribal NEW program with the tribal Welfare to Work grants would create this program. It would be funded at $37 million annually and distributed to current Tribal NEW and Welfare to Work grantees as well as new applicants. The current Tribal NEW program allocation is based on 1994 population figures and is not adequate to support today's difficult to serve Alaska Native and American Indian population. This consolidation would broaden the scope of job-readiness activities and other employment related services for families on public assistance or at risk of being on assistance, including intensive services for teen parents. Tribes could also use the funds to assist non-custodial parents of children on or at risk of being on, public assistance.

My final remarks address the issue of Tribal Child Care. The availability of quality child care is a major factor in the transition from welfare to work for TANF clients. For parent(s) to leave welfare or other public assistance programs, obtain basic marketable skills and move into the workforce, the lack of childcare can make the difference between success or failure to obtain and sustain employment. In particular, infant care and care for children with special needs is expensive and hard to find. As more families leave the welfare system and become employed the need for services continues to steadily increase. For many TANF families who initially find entry-level employment the cost of childcare is clearly beyond what their income can maintain. The tribal set-aside within the Child Care Development Fund must be increased from the current 2 percent to 5 percent.

This concludes my remarks. Mr. Chairman, I express my appreciation for the opportunity to testify on these important issues faced by Alaska's Native people.

PREPARED STATEMENT OF SARAH HICKS, NATIONAL CONGRESS OF AMERICAN INDIANS [NCAI]

Chairman Inouye, Vice Chairman Campbell, and members of the committee, I would like to thank you for inviting NCAI to testify on the implementation and reauthorization of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. As you know, the National Congress of American Indians, the oldest, largest and most representative organization of American Indian and Alaska Native tribes and individuals in the nation, has worked actively with tribal governments throughout the country on the implementation of welfare reform since the passage of Public Law 104–193. NCAI has facilitated an ongoing Welfare Reform Task Force composed of tribal representatives from all regions of Indian Country, and has coordinated a range of tribal activities relating to welfare reform implementation, improving state/tribal relationships, and exploring opportunities for increased tribal participation in local public policy development under a 3-year grant from the W. K. Kellogg Foundation.

My name is Sarah Hicks, and I serve as the Director of the Welfare Reform Program at NCAL Over the last 5 years, I've coordinated a range of tribal activities relating to welfare reform, and have had the remarkable opportunity to work with tribes throughout the country on the implementation of State and Tribal TANF and a host of related programs. For 3 years, NCAI has facilitated a workgroup of TANF tribes. In the absence of Federal resources to provide technical assistance and share program knowledge, NCAI coordinated a peer-learning process based on information sharing meetings, where tribes met on one another's reservations, toured each other's programs, and, for the last 2 years, spent considerable time and energy on discussions focused on the reauthorization of the welfare reform law.

Within the last year, tribes have also entered into serious dialog with states about welfare reform reauthorization. Through our partnership with the American Public Human Services Association (APHSA), NCAI, and TANF tribes have made considerable headway in finding common ground between states and tribes on many reauthorization issues. This morning, I'm here to share with you three brief themes I have gathered in my work with the 36 Tribal TANF programs (serving 174 tribes), the many tribes that are still served by State TANF programs, and a variety of State TANF programs that serve large Indian TANF caseloads. In addition to my testimony today, a range of specific recommendations from our workgroup are discussed more thoroughly in an attachment to my formal statement, which I would like to submit for the record with my testimony.

NCAI Testimony to the Senate Committee on Indian Affairs Regarding Reauthorization of PRWORA

First, tribes support welfare reform efforts. The concept of welfare reform resonates with American Indian and Alaska Native tribes. I have found tribal governments to be universally in favor of individual responsibility and work coupled with appropriate community supports. Tribes are proponents of addressing issues comprehensively with a whole systems approach, looking holistically at family needs. Tribal governments have shown a strong preference for the flexibility to facilitate locally designed and administered programs that fit their unique community needs.

In many ways, the welfare reform law provided tribes with a good blueprint for change. But in its current form, I would have to say that the existing law has not brought enough change to Indian country. Due to the severe lack of jobs on reservations, work rates for Indian participants in both State and Tribal TANF programs are significantly below average. Poverty rates remain high on reservations. Many support services, such as child care and transportation, are largely unavailable on reservations. Job training programs have lengthy waiting lists in many cases. On other reservations, program participants are nearly "trained to death" but still can't get a job because of the lack of employment.

This leads me to my second point. The key to meaningful reform in tribal communities is flexibility. Too often welfare reform is thought of as encompassing only the Temporary Assistance for Needy Families program. And too often, tribal options around welfare reform implementation are seen by both tribes and states as either (1) a tribe receiving Federal funding for the administration of TANF or (2) the tribe continuing to receive TANF benefits and services from the state. In actuality, there are a whole range of options between the decision "to TANF" or "not to TANF." Because the government closest to the people can provide the best service, we think that in the vast majority of cases, tribes are able to provide social services to their people more effectively than states. For the most part, states agree with us.

For a whole variety of reasons, tribes may decide not to administer a Tribal TANF program. In fact, according to GAO and the Congressional Research Service, 305 tribes (and close to 40,000 Indian families) are currently being served by State TANF programs. Further, as State TANF caseloads decline, an increasing percentage of welfare recipients on many state programs are Indian. Tribes that cannot financially afford to run TANF or that simply opt not to administer the program can still work with the State TANF program to develop the necessary referral systems between various state and tribal support programs as well as to contract with the state for the tribal administration of case management or work and training components of TANF. In fact, many of the tribes that administer TANF contract some of the administrative functions (such as the distribution of assistance checks and Federal reporting requirements) back to their respective states.

The bottomline is this: As with all locally designed programs, the key for successful Tribal TANF programs and State TANF programs serving Indian communities is flexibility in service delivery arrangements. This flexibility will also be critical in the potential of many states with large Indian populations to meet increased work requirements and work participation rates. Tribal TANF programs need to maintain the flexibility that we have: the flexibility to define our service area, service population and work activities, as well as to negotiate work requirements and work participation rates.

Tribes in Alaska face a unique limitation in the existing welfare reform law, are treated differently than tribes in the lower 48 states, and should be given the same flexibility as other tribes. The current law limits Alaskan tribes' flexibility through two provisions, the NCAI Testimony to the Senate Committee on Indian Affairs Regarding Reauthorization of PRWORA first of which gives the authority for direct Tribal TANF funding and administration in Alaska to 12 regional non-profit corporations instead of the state's federally recognized tribal governments. This has a dramatic impact on tribal governments because Alaska's 227 tribes make up 40 percent of all tribes in the United States. Additionally, a second provision requires Tribal TANF programs in Alaska to be "comparable" to the state-operated TANF program. These provisions hinder self-determination and the ability of tribes in Alaska to make tribal-specific program decisions.

State governments also need increased flexibility. States need the ability to contract with tribes, allowing state TANF funds transferred to tribes to take on the identity of tribal funds. The states of Alaska, Minnesota, and Washington already use TANF funds to contract with tribes for the provision of job training and workforce development activities. But, with increased flexibility, state TANF programs could contract with tribes for employment and training services, enabling tribes to report to the Federal Government in their existing annual tribal employment program reports on the use of funds, relieving states of the undesirable responsibility of "monitoring" tribal activities. Precedent for this kind of arrangement already exists when states transfer TANF funds to the Child Care Development Block Grant and to the Title XX Social Services Block Grant.

My third point is that the notion of welfare reform is much broader than TANF. TANF is a flexible funding stream to provide time-limited assistance for poor families and facilitate their climb on the ladder to self-sufficiency. The linkages between TANF and many other social support and assistance programs are well-documented. We should think about welfare reform in Indian country with a similar view. The formula for meaningful welfare reform includes:

Financial assistance programs for poor and fragile families, including TANF, Child Support, and Foster Care;

Related support services that enable recipients to get and keep a job, such as child care, transportation, mental health care, substance abuse treatment, and other needed support systems;

Job training programs to build skills for work, qualifying recipients for available jobs; and Tribal economic development to provide recipients jobs at which they can earn a living wage and become self-sufficient.

In our work with APHSA, tribes have begun to discuss the continuum of tribal administration of human service programs on their reservations. In some cases, tribes administer all of the programs for which they have the authority to receive direct funding and contract with states to administer others. The welfare reform reauthorization debate is likely to continue to raise issues relating to the desire of some tribal governments to administer other TANF-related programs, like Title IV-E Foster Care, the Social Services Block Grant, the Food Stamp Program, Medicaid, and the Children's Health Insurance Program, none of which are currently available to tribes.

As tribes continue to build more comprehensive local service delivery systems, providing better access to services and closer ties to local jobs, the well-being of tribal citizens is improving. Tribes are increasingly capable of administering more sophisticated and complex service systems. As the opportunity to administer new programs becomes available to tribes, flexible rules and program options must be in place. Tribes strongly concur with DHHS Secretary Tommy Thompson's statement that "Barriers must not become excuses-either for government or for former welfare recipients, especially if we can work together to improve matters and move more people to the workforce." State-tribal coordination and collaboration to serve reservation-based families underpins the ability of governments to deal with barriers.

The importance of economic development to successful welfare reform implementation cannot be overstated. As my colleagues Drs. Eddie Brown and Stephen Cornell have stated, "Even if the funding problems with TANF and its related training programs can be solved—and even if Federal policy were to provide Indian nations with more flexibility and control over the design and implementation of reform, a sobering fact remains: without an economic growth strategy, welfare reform in Indian country will fail." Welfare reform reauthorization must address the need for economic growth to support employment on reservations.

A two-pronged approach is necessary. First, tribes need more flexibility to use existing resources; legislation like S. 343, the Indian Tribal Development Consolidated Funding Act, is one such tool. Second, tribes need additional resources-both for economic infrastructure and direct job creation. In terms of infrastructure, tribes desperately need to develop better transportation systems and create a more business friendly environment. Transportation is critical both for human capital development (getting people to training opportunities and jobs) as well as important infrastructure for the distribution of goods and services both on and off of reservations. Creating a more business-friendly environment on reservations requires uniform commercial codes, tort liability codes, collaborative business networks, telecommunications infrastructure, and tribal marketing efforts. Development grants to provide targeted, concrete technical assistance to tribes in these areas would be a worthwhile and fairly inexpensive way to really facilitate economic growth on Indian reservations. Finally, the expansion of tribal authority to issue private activity bonds for reservation-based economic activity is a way to directly create jobs on reservations.

In closing, there's no doubt that many Tribal TANF Programs have been successful in creatively addressing the challenges they face. Tribal TANF programs are doing what most states have had considerable difficulty in doing: working intensely with multiple barrier families on reservations. Tribal TANF has given tribal members access to support services and job opportunities and has resulted in TANF recipients increasingly being involved in meaningful work activities and making progress on Individual Responsibility Plans. Tribal TANF programs have been able to facilitate limited economic development (particularly in the area of microenterprise) and job creation. Tribal TANF programs have worked closely with faith-based organizations, emphasized family formation and responsible fatherhood activities, and reduced teen pregnancies. However, in examining the areas of Federal welfare reform policy that could be refined to yield far-reaching results in Indian country, it is clear that reauthorization must include the following:

Building Tribal TANF infrastructure by providing resources for Tribal TANF startup, Management Information Systems, and staff training;

Accessing sufficient on-going TANF administration resources by providing incentives for adequate State TANF contributions to Tribal TANF programs or making a commitment for the full Federal funding of Tribal TANF;

Establishing equity for Tribal TANF through access to the same resources state programs enjoy (such as the high performance bonus, the Contingency Fund, Technical Assistance, and Research); and

Economic development in Indian count with increased flexibility to use existing resources and increased resources for development infrastructure and job creation.

Overall, tribes strongly support welfare reform reauthorization and look forward to taking the next step to bring increased opportunity to Indian reservations. We commend the committee for its commitment to Indian Country, and appreciate its focus on welfare reform, an issue that profoundly affects the well-being of Indian people. Thank you for your invitation to testify, and I welcome any questions that you might have.

PREPARED STATEMENT OF MICHAEL PETERS, TRIBAL SECRETARY, SISSETON-WAHPETON SIOUX TRIBE

Good Morning, Chairman Inouye and distinguished members of the Committee of Indian Affairs. I bring you greetings from the Sisseton-Wahpeton Sioux Tribal Council. My name is Michael Peters, the elected Tribal Secretary of the tribe and I thank you for the opportunity to present testimony on tribal concerns in regard to the reauthorization of the Federal welfare reform law Personal Responsibility and Work Opportunity Reconciliation Act [PRWORA].

The Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation is located in northeastern South Dakota with a small portion of the reservation being located in southeastern North Dakota. The reservation was established by the Treaty of 1867 and currently according to tribal data has a tribal membership of 10,726 of which 4,830 reside on or the near the reservation.

We are a people rich in tradition and are proud of our heritage, however many of our people live in severe poverty and with current economic conditions on the reservation they will have little opportunity to become self-sufficient. The following conditions illustrate the difficulty tribal members have in seeking and retaining employment. Current tribal data shows a poverty rate in excess of sixty (60) percent and an unemployment rate of approximately forty (40) percent. **Lack of jobs, basic education, skill training, childcare facilities, transportation, and substance abuse are the major barriers to employment and self-sufficiency for many tribal members.** Additionally there are many families who have a job but are underemployed. They have incomes that are below poverty guidelines and thus they have problems that relate to retaining employment. In many areas of the country the above conditions would be considered a real tragedy.

Because of the above conditions, the tribe is and has been very concerned with the welfare of its members particularly its young people. In October 1987, the tribe implemented its own Temporary Assistance for Needy Families Program **without State matching funds** with the firm conviction that the tribe knows best the needs of its people and is in the best position to address those needs. This year the tribe has received direct Federal funding for its own Child Support Enforcement Program with the purpose of ensuring that all children affiliated with the tribe are able to determine their lineage and obtain child support from responsible parents in a culturally sensitive manner.

In the tribe's opinion, its administration of the Temporary Assistance for Needy Programs (TANF) has been a success. Approximately, sixty (60) percent of the initial TANF caseload (October 1997) no longer receives TANF benefits and of the remaining forty (40) percent less than one (1) percent will reach the 60-month time limit. **This success can be attributed to the tribe being able to integrate TANF into its Public Law 102–477 (477 Program) Indian Employment, Training, and Related Services Program and target the majority of these resources to welfare recipients.** Other resources related to welfare reform that have been included into the tribe's 477 Program include Native Employment Works, Child Care Development Fund, Work Force Investment Act Programs, Adult Vocational Training, Employment Assistance, General Assistance, and the Tribal Work Experience Program.

With resources found in its 477 program the tribe was able to run a pilot project for children in its largest political district, which encouraged children to stay in school, prepare for work, and stay off welfare. Young people were involved in discussions on career development, career readiness and future goal planning; healthy life styles and self-sufficiency; and responsible families in the Dakota culture. However, presently the tribe lacks the resources to build on and expand this pilot project.

The Tribal Council does provide limited financial support to its 477 program, however the Council recognizes that if there is to be a solution to welfare dependency these funds **must eventually be** utilized for economic development activities that create jobs for welfare recipients.

Despite the success, there has not been a drop in the tribe's TANF caseload. Since the implementation of TANF the tribe's caseload has remained relatively constant because:

- Tribal members not being able to retain employment (problems with transportation and childcare)
- Family breakdown/substance abuse problems
- A continual inflow of new cases—particularity young mothers. The tribe has found that Indian people are much more apt to seek services from a tribal program than from a State administered program and they hold the tribe much more accountable for the quality of services delivered
- Lack of support from the non-custodial parent

Welfare reform truly has not brought significant change to the Lake Traverse Reservation.

The Sisseton-Wahpeton Sioux Tribe has made a major commitment to help our people to meet the challenges of welfare reform. We have devoted tribal as well as many of our Federal resources to welfare reform. But the tribe cannot do this job alone. We offer the following recommendations:

In terms of Federal resources for our employment services:

We need continued direct funding for our tribal employment programs. We do not receive funding from the State of South Dakota for these services and we do not receive sufficient tribal TANF funds to be able to provide the services necessary to move our people from welfare to work. Any reauthorization of the welfare reform law must provide for the direct funding of tribal employment services.

We need support for tribal employment services at an adequate level. We support a tribal employment services program that includes the funding we received from the Native Employment Works (NEW) and the Welfare-to-Work program and an increase necessary for us serve clients with more barriers to employment. The tribe under its Child Support Enforcement Program can now make non-custodial parents accountable to support their children, however many need basic education and skill training which will enable them find and retain employment so they can provide the needed support. Simply continuing the NEW program for another 5 years at its FY–94 funding level will not give the tribe the capacity to provide services to non-custodial parents.

We need the ability to integrate all the necessary services into a single program that makes sense to the tribe and works effectively at the reservation level. The tribe has tried to do this under Public Law 102–477. The integrated approach is essential to the tribe's continues success with welfare reform. Program integration is a goal of the President's welfare reform proposals. However, we and other 477 tribes have been hamstrung by objections raised by HHS staff to integrating TANF and NEW with our other programs under a single plan, single budget, and single report. The welfare reauthorization law must include strong language that HHS must respect our ability to use 477 as a tribal tool for program integration.

We need a requirement in the Law that HHS and all other Federal agencies involved must consult with the tribal governments on regulations and policies governing the various Federal programs. The tribe cannot afford to have its plans undermined by Federal rules adopted without our input and which makes our job impossible.

In terms of Federal Resources for Tribal TANF:

We need to a way to insure that our TANF recipients receive at least the same level of resources per person that State TANF recipients receive. Our employment services are closely integrated with our cash assistance programs, including General Assistance, and supportive services such as childcare. If our TANF program is shortchanged because the State of South Dakota chooses not to provide matching funds, all the services suffer and our people do not receive all the help they need. The reauthorization of welfare reform must provide for an adjustment to tribal TANF funding levels in situations like ours where there is not state "match." Reauthorization should also provide bonus and contingency funds for tribes.

We strongly recommend that reauthorization continue to protect the tribal flexibility to distinctly define their service area and service population and the ability to negotiate minimum work participation requirements.

We also recommend a reduction in the fifty (50) percent joblessness rate found in Section 408 of PRWORA. This tribe strongly recommends stopping the clock for months of assistance where TANF recipients are meeting all the program requirements but cannot find employment because of the lack of employment opportunities within reservation.

And, we need support for economic development to insure that there are jobs for welfare recipients. If welfare reform is to be about reducing dependency on public assistance in tribal communities, it must also be about creating jobs in reservation areas for welfare recipients so welfare recipients can become self-sufficient.

The Sisseton-Wahpeton Sioux Tribe has taken tribal sovereignty very seriously. We have applied this concept to our tribal services, as well as our approach to many other issues.

We were one of the first tribes to take the opportunity to integrate many of our services under Public Law 102–477. We were one the first tribes to run our own tribal TANF program. We continue to be the only tribe in the State of South Dakota that has done so. We were one of the first tribe to implement our own Child Support Enforcement Program. This is a record we are proud of.

We intend to continue to serve our people in ways that are consistent with our tribal traditions and the needs of our communities. What we ask is simply that you make it possible for us to help ourselves more effectively and that you continue the Indian Affairs Committee's strong commitment to tribal sovereignty in all its aspects.

PREPARED STATEMENT OF JACK F. TROPE, EXECUTIVE DIRECTOR, ASSOCIATION ON AMERICAN INDIAN AFFAIRS, INC

Chairman Inouye, Vice Chairman Campbell, and members of the Senate Committee on Indian Affairs. Please accept this testimony for the record on behalf of the Association on American Indian Affairs, Inc. [AAIA]. AAIA is an 80-year-old citizens' organization governed by an all-Native American Board of Directors, with members in all 50 States and offices in South Dakota, New Mexico and Arizona. AAIA was formed, and has worked closely with tribes, to promote the welfare of American Indians and Alaska Natives. This has included the defense of the constitutional rights of Indian tribes and their members, efforts to improve their health, economic and educational conditions and support for the perpetuation of their cultures.

As part of its work, AAIA has long been involved in the effort to obtain adequate tribal funding from Federal block grants and entitlement programs. In 1988, then-Congressman Morris Udall introduced a bill at AAIA's request that would have provided for direct tribal funding from the Title XX Block Grant program, Titles IV-B and IV-E of the Social Security Act and the Alcohol, Drug Abuse and Mental Health Block Grant. In 1990 and 1991, AAIA was invited to testify on these tribal funding issues by both the Subcommittee on Social Security and Family Policy of the Senate Finance Committee and a subcommittee of the House Ways and Means Committee. AAIA has continued to actively work with House and Senate staff on these issues, as well as organizations like the National Indian Child Welfare Association, for the last several years.

AAIA enthusiastically applauds Senator Baucus' introduction of S. 2484. While we believe that there are many meritorious provisions in the bill, we particularly want to emphasize our support for sections 10 and 13 of the bill. These sections would make tribes eligible for direct funding under the Title IV-E Foster and Adoption Assistance program and the Title XX Social Services Block Grant. As you know, section 10 is based upon S. 550, sponsored by Senator Daschle and co-sponsored by 16 Senators, including many of the Senators on this Committee. We thank all of those Senators for their support on this issue and their commitment to Indian families, children and tribes and would particularly like to recognize those Senators from states where AAIA is currently located—Senators Daschle, Johnson, Bingaman, Dominici, and McCain.

As has been well documented, tribal exclusion from these programs was not deliberate. At that time (1980), the committees addressing these issues did not fully understand and recognize the critical role of tribal governments in service delivery to children, nor the inherent sovereignty of Indian tribal nations. Today, Congress has a better understanding of tribal sovereignty and the critical role of tribal governments in providing services to children and families and, as the aforementioned Senators have recognized, it is time to correct this oversight. Tribal governments are the entities best situated to provide such services to their communities for several reasons:

- Indian tribes are "domestic dependent nations" with inherent sovereign powers. They have a direct government-to-government relationship with the Federal Government and are not subdivisions of the states.
- History has shown, and a 1994 HHS inspector general report confirms, that states do not generally pass through block grant funding to tribal governments; in the case of Title IV-E, there have been some tribal-state agreements negotiated, but they are limited in number and scope and generally do not include the full array of IV-E services and administrative support that states are able to access.
- Tribal programs are more attuned to the special programmatic and cultural needs of their local communities and have experience in operating quality programs when resources are available; permanency for Indian children who need out-of-home placements is best achieved when tribes have the resources to ensure that quality foster care and adoptive placements for these children.
- Tribal members continue to experience inequity in the quality and quantity of services available under State-administered programs.
- Although some tribes have accumulated significant resources because of their successful gaming operations, most tribes continue to lack a substantial economic and tax base from which to generate resources.
- Federal resources provided for Indian people for social services through Bureau of Indian Affairs and Indian Health Services budgets have consistently been inadequate, falling far short of need.
- In the case of Title IV-E, providing for tribal access to this program would address a substantial injustice—namely, that some of the neediest children in the country are excluded from a program that is an entitlement for all other similarly situated children, simply because they fall under tribal jurisdiction.

Of note, support for these provisions is not limited to tribes and Indian organizations. For example, the 1994 HHS Inspector General report specifically recommended direct funding to tribes under Titles IV-E and XX and state-based groups such as the American Public Human Services Association have taken a clear position in support of the Title IV-E provisions of this bill.

For all of these reasons, we urge Congress to include sections 10 and 13 of S. 2484 in Welfare Reform Reauthorization legislation.

Thank you for considering this testimony.

STATEMENT OF THE

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PRESENTED BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS

REGARDING

TITLE IV-E FOSTER CARE AND ADOPTION ASSISTANCE FOR INDIAN CHILDREN IN THE CONTEXT OF WELFARE REFORM REAUTHORIZATION

May 10, 2002

NICWA
National Indian Child Welfare Association
Protecting our children • Preserving our culture

The National Indian Child Welfare Association appreciates this opportunity to testify regarding the reauthorization of what is collectively known as welfare reform programs. Because our area of expertise is child welfare, we will focus on the Title IV-E Foster Care and Adoption Assistance Act[1] and the need for welfare reform legislation to authorize direct tribal administration of this federal entitlement program. It would also authorize tribal-state agreements. Legislation to accomplish this goal was introduced by Senator Daschle as S. 550[2] and by Representative Camp as H.R. 2335. In addition, the text of S. 550 is also a part of Senator Baucus's tribal welfare reform proposal.

We especially thank the Members of the Senate Committee on Indian Affairs who are cosponsors of S. 550 - Senators Inouye, Campbell, Johnson, McCain, Wellstone, Akaka, and Domenici. Your support for this very important legislation to help Indian children is very much appreciated. We also give special thanks to the American Public Human Services Association, the Child Welfare League of America, and the Children's Defense Fund for their support for direct tribal administration of the Title IV-E program. And, as you would expect, there is widespread support in Indian Country for this legislation.

* * *

RECOMMENDATION

Tribal Access to the Title IV-E Program

Our primary recommendation is that the Title IV-E amendments of S. 550, which are also included in the Baucus tribal welfare reform proposal, be included in any welfare reform reauthorization bill that the Finance Committee recommends for passage to the full Senate body. These amendments would correct an oversight in the 1980 Title IV-E Foster Care and Adoption Assistance law to make otherwise eligible Indian children placed in out-of-home placements by tribal courts eligible for Title IV-E services and to allow tribal governments to administer these programs directly. The statute has left out a whole class of children - Indian children living in tribal areas - from receiving the entitlement benefits. All other income eligible children in the United States receive this program as an entitlement. Congress must correct this situation. This program should be offered to tribes consistent with government-to-government federal policy. This would necessitate tribes having the ability to directly administer the program.

* * *

It is incredulous that a program designed for poor children who must be placed in out-of-home placements has generally bypassed a segment of the population that clearly meets the criteria for eligibility. Indian children living in tribal areas are among the poorest in the nation, and they are living in foster or adoptive homes at rates higher than other segments of the society. But tribal governments are not eligible to administer this program for children under their jurisdiction. As a result, placement options for Indian children in tribal care continue to be very limited and many times unstable, even with the incredible knowledge and experience of tribal child welfare programs in general. In our view, this funding issue, as much as any other issue, has impacted the ability of Indian children to secure a sense of permanency after being removed from their homes.

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[1] Title IV-E of the Social Security Act.

[2] The CBO score on S. 550 is $104 million over five years and $380 million over ten years. The bill was referred to the Senate Finance Committee.

Tribal Administration of Foster Care/Adoption Assistance Program is a Necessary Component of Welfare Reform Law

Our recommendation that the Title IV-E legislation be included in the welfare reform reauthorization bill in order to provide direct funding to eligible children on Indian reservations and to tribal governments for the administration of the program serves the purposes of the current welfare reform law.

Under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, a state cannot receive Temporary Assistance for Needy Families (TANF) funding unless it operates both a Foster Care and Adoption Assistance and a Child Support Enforcement program under Titles IV-E and D of the Social Security Act. Congress explicitly recognized the interrelationship between the effort to end dependence on public assistance with the need for a strong child support enforcement program and an effective system for helping our most vulnerable children - those living in poverty that require temporary or permanent placements outside their homes. Sadly, the federal entitlement statutes concerning foster care and adoption and child support enforcement have been of very little benefit to Indian children living on reservations.

TANF, foster care and adoption assistance, and child support enforcement serve as a three-legged stool for providing services to families, but tribes have not been given the option of administering the IV-E Foster Care and Adoption Assistance program. While the 1996 welfare reform law authorized tribes to administer the IV-D Child Support Enforcement program, the regulations for tribal child support enforcement are still not finalized; thus tribes are not yet able to use this authority.

Tribes are teetering on one leg of a stool, and that leg is TANF. We need the other two legs. We need the final tribal child support enforcement regulations to be issued, and we need to enact legislation to allow tribes to administer the federal entitlement program for foster care and adoption assistance.

We cannot imagine that states would be able to administer the kind of foster care and adoption assistance programs they currently run absent the federal entitlement funds from the IV-E program. The federal government currently provides $6.7 BILLION in IV-E funds to states.

Tribal IV-E Amendments Would Help Provide Permanency for Indian Children

Enacting legislation to allow tribes to directly administer the IV-E program would increase the chances of permanency for Indian and Alaska Native children because of the following:

- More families on Indian reservations could afford to be foster and adoptive parents because of IV-E payments that assist for clothing, school supplies, transportation, and other daily needs of the child. Families on Indian reservations now sometimes find they must give up foster children because of financial concerns.

- Families would receive training, increasing their chances to be successful foster and adoptive homes
- Improved tribal social services and case management because of the permanent base of IV-E administrative, training and data collection funding
- Medicaid eligibility for children – many of the emotional and mental health needs of these children cannot be met by tribally based health programs, and Medicaid would provide access to other health facilities. Families on Indian reservations sometimes now find they cannot keep foster children because of behavioral or health needs for which they do not have appropriate services.

Title IV-E Foster Care and Adoption Assistance Programs - Services Which are Not Guaranteed to Indian Children

Below we provide an overview of the services provided under the Title IV-E entitlement program in order to emphasize that these are services not guaranteed to otherwise eligible Indian children.

Title IV-E provides states with a permanently authorized entitlement program that supplies matching funds to support placements of income-eligible children in foster care homes, private non-profit child care facilities, or public child care institutions. These foster care maintenance payments are intended to support the costs of food, shelter, clothing, daily supervision, school supplies, general incidentals, liability insurance for the child, and reasonable travel to the child's home for visits. Matching funds are also available for administrative activities that support the child's placement and training for professionals and parents involved in these placements.

Title IV-E also provides entitlement funds to states to support adoption assistance activities, and like the foster care program, is mandatory for all states that operated the former Aid to Families with Dependent Children (AFDC) program or the TANF block grant and Child Support Enforcement program. Activities which qualify for matching funds include maintenance payments for eligible children who are adopted, administrative payments for expenses associated with placing children in adoption, and training of professional staff and parents involved in adoption. To be eligible for these matching funds, states must develop agreements with parents who adopt eligible children with special needs. Special-needs children must be AFDC- or Supplemental Security Insurance (SSI)- eligible. However, states may also claim non-reoccurring adoption expenses for children with special needs who are not AFDC- or SSI-eligible. While Title IV-E broadly defines special needs children as those who have characteristics that make them difficult to place, Title IV-E gives states discretion as to the specific categories of special needs children that they will recognize (e.g., older children, minority children, and children with physical, emotional, or behavioral problems).

Another area of support under Title IV-E is the Independent Living Program that assists youth up to age 21 in making a transition from the foster care system to independent living. Examples of services provided under this program are basic skills training, educational services (e.g., GED preparation), and employment preparedness.

The services under Title IV-E foster care, adoption assistance, and independent living programs provide the core funding for a continuum of state efforts to find a lasting and permanent home for children who have been or are currently in the foster care system. Without this funding, it is doubtful that any state could operate and maintain a child welfare system that was successful in securing permanent homes for children.

Indian Children and Title IV-E

Why did the Foster Care and Adoption Assistance Act of 1980 not include Indian children under tribal jurisdiction as eligible beneficiaries? We believe that is was a drafting oversight that left Indian children and tribes ineligible to receive Title IV-E services. We see nothing in the legislative history to suggest otherwise, and conversations with the office of Representative George Miller, the primary author of the 1980 Act, suggests it was not intentional. Indeed, Representative Miller is a co-sponsor of H.R. 2335, legislation that would amend the Social Security Act to allow tribal governments to directly administer the Title IV-E program. Unfortunately, the Title IV-E statute is not the only social services related program that has given little thought to services for people living on Indian lands. We urge Congress to always keep in mind that tribal governments are not subsets of state governments. They are legally distinct and separate from state governments. Federal statutes authorizing services need to make specific provisions for tribal delivery systems.

While approximately 70 tribes/tribal organizations have agreements with states to operate portions of the Title IV-E program, these agreements have not benefited many of the approximately 4,500 Indian children on tribal lands who are eligible for Title IV-E services. The formation of these agreements is not mandatory for states, and many tribes that would like to operate Title IV-E have no opportunity to do so. Furthermore, states do not always provide equitable access to the services that Title IV-E offers in the agreements, making tribal implementation more difficult.

Nonetheless, when tribes have been given the opportunity to operate portions of the Title IV-E program, they have shown themselves to be creative and effective administrators of the program. For example, Three Affiliated Tribes of Fort Berthold in North Dakota, using a combination of the Title IV-E program they operate through agreement with the state and other community-based child and family services, has been able to reduce their foster care caseload by more than half since the early 1990s. Professional staff used the community knowledge they possessed to make services more responsive, while building upon program funding to expand services, resulting in this dramatic change. This kind of program model is promising but would not have been feasible without core funding support for a variety of child welfare services.

DHHS Office of Inspector General Report

A picture of the situation for tribal access to Title IV-E and other federal social service and child welfare funds was provided in a report by the DHHS Office of Inspector General (OIG), *Opportunities for Administration for Children and Families to Improve Child Welfare Services and Protections for Native American Children*, produced in August 1994. The report documented that tribes receive little benefit or funding from federal Social Security Act programs, specifically Title IV-E Foster Care and Adoption Assistance, the Title XX Social Services Block Grant, and the Title IV-B Child Welfare Services and Family Preservation and Support Services monies. While tribes receive a small amount of direct funding under both of the IV-B programs ($4.6 million for Title IV-B, subpart 1, and $4.4 million for Title IV-B, subpart 2 for FY 2002), there is no direct funding available to tribes under the much larger Title IV-E and Title XX programs.

In listing options for improving service to tribes, the OIG study stated that the surest way to guarantee that Indian people receive benefits from these Social Security Act programs is to amend the authorizing statutes to provide direct allocations to tribes. This statement was repeated in a hearing conducted by the Senate Committee on Indian Affairs on April 5, 1995, by the Office of Inspector General from DHHS.

The OIG report discusses the barriers to tribal-state agreements regarding Title IV-E:

- *No explicit authority.* Congress provided no authority for ACF to award Title IV-E and Title XX funds directly to tribes and the law neither requires nor encourages States to share funds with tribes.

- *State responsibility for tribal compliance with requirements of Title IV-E funds is problematic for states.* Some states are reluctant to enter into Title IV-E agreements with tribes because under the law, the state would be held accountable for tribal compliance with Title IV-E. States could, if tribal records evidenced non-compliance, lose a portion of their Title IV-E and IV-B funds. We know that this is an issue with a number of states, including Alaska, Arizona, California, and New Mexico.

- *Disputes between tribes and states about issues unrelated to child welfare:* Both state and tribal officials reported that points of contention between state and tribal governments unrelated to child welfare have made agreements impossible to reach. Issues concerning land rights and jurisdiction have thwarted these agreements. At least one state made receipt of foster care money contingent upon the tribe adopting the complete set of state child welfare policies and procedures, without consideration for the impact this would have upon working effectively with Indian children and families or federal law to the contrary.

- *Tribal lands which extend into multiple states.* In cases where tribal lands extend across state borders (e.g., Navajo is in Arizona, New Mexico, and Utah), the prospects of concluding multiple IV-E agreements have proved unfeasible. Eight federally recognized tribes have lands that extend into multiple states, with several more that border at least one other state where significant tribal populations reside.

The OIG report also notes that state officials with whom they talked favored direct IV-E funding to tribes:

> With respect to IV-E funding, most State officials with whom we talked favored ACF (Administration on Children and Families) dealing directly with Tribes. This direct approach for Title IV-E would eliminate the need for Tribal-State agreements, and because Title IV-E is an uncapped Federal entitlement, would not affect the moneys available to the States. (p. 13)

Consequences for Indian Children and Tribal Communities from the Current Lack of Stable Funding

Below are three examples of problems encountered by the lack of tribal authority to directly administer the IV-E programs at Navajo Nation, Three Affiliated Tribes, and Metlaktala Indian Community.

The Risk To Indian Children's Permanency From Unsubsidized Homes

Not wanting to leave children in harmful situations, tribes have had to resort to alternative vehicles for protecting children who must be removed from their homes. A common method is the placement of Indian children in unsubsidized homes. This often requires the good will of a family in the community that will commit its personal resources, time, and home to a foster care, legal guardianship, or pre-adoptive placement for a needy child. Even though the commitment is made with love, the vast majority of these families find this event to be stressful and sometimes unworkable after a period of time, especially when considering the numbers of Indian families on tribal lands who live in or close to poverty.

Most tribes will still license the unsubsidized family foster home and provide assistance on foster parenting even though it often involves shifting scarce child protection funds from one account to another in order to meet emergency and other pressing needs. However, additional services that support the child and foster family that are reimbursable under Title IV-E state programs are not always available, causing additional stress on the foster or pre-adoptive family and putting the placement at risk for disruption.

In one situation, a three-year old Navajo child was transferred from the state of New Mexico to a foster home on the reservation. The tribal child welfare program had a promising placement for the child and was feeling hopeful that a good ending for the child was soon to be. This was particularly encouraging because the child had many special needs and was a victim of sexual abuse. The foster mother who the tribal program had recruited, a non-relative, was asked to support the foster child with no subsidy because the tribe did not have sufficient funding in this area. Nonetheless, the foster mother accepted the placement. Several months later, in coordination with the tribal child welfare program, the foster mother was seriously considering adopting the child. After a year in the foster mother's care the adoption was almost ready to go into the final stages when the foster mother's job situation changed and she became unable to fully support the child. This resulted in the child having to be moved to another placement and all the work that went into securing a permanent placement for the child was lost and, of course, the child's life was disrupted by the move.

The Connection Between Support Services and Permanency for Indian Children

The lack of Title IV-E funding is also felt at the front end of developing permanency for Indian children. Tribal child welfare programs, which are responsible for recruiting potential foster care and adoptive families, have difficulties recruiting and maintaining families because they cannot guarantee basic maintenance payments and few support services for the placement. While strong community values and individual generosity often prevail in helping provide temporary homes for needy Indian children, the numbers of homes actually needed often does not meet the need because of limitations on support that can be offered to these families.

Child welfare work in Alaska presents some unique challenges, but the Metlakatla Indian Community south of Juneau has the additional challenge of doing this work without the necessary resources. Karen Thompson of Metlakatla's Social Services Division knows these challenges only too well. During one situation, she encountered a pre-adolescent child with serious mental health problems. Since the Indian community had no access to funding for recruiting, training, and supporting foster families that could handle a child with these special needs, she was left with virtually no viable options for care. Karen could 1) try to piece together short-term care arrangements among several families in the community, which would be risky and very difficult based upon the needs of the child and lack of trained therapeutic foster homes in the community; 2) have the child committed for protective custody to the local jail facility; or 3) try to get the state to agree to provide services, which would mean flying the child hundreds of miles away for care, making any meaningful permanency planning involving relatives or other community members almost impossible. This may sound like an isolated incident, but for Karen, t is a regular event. This example points out the extreme challenges and strain for a tribal community that has little to offer prospective foster and adoptive parents.

The Navajo Nation also shares in this dilemma. While the tribe works hard to provide adequate services for Navajo children and families, it is sometimes necessary to transfer children to shelters in border towns on or near the reservation boundary, sometimes hundreds of miles away from their families. These arrangements are made when foster placements for Navajo children with special needs cannot be developed or located due to funding constraints. This makes coordinating regular involvement of the child's relatives, which is critical to securing a permanent placement for the child, very difficult if not impossible in some cases.

Jurisdictional and Service Coordination Problems Impacting Permanency for Indian Children

The value of community-based services cannot be underestimated, especially for children who have been the victims of abuse or neglect. This same value also holds true to the would-be caregivers for these children who are making tremendous efforts to provide a loving and stable home to these children. Gaps in service coordination are not easily worked out in many cases and can both delay a child getting a permanent home and delay their caregivers from getting the support they need for months. Jurisdictional conflicts between tribes and states are often a precipitating factor in these service coordination problems, resulting in the child being further victimized by child welfare systems that don't communicate well with one another. For tribes, getting access to state services can be very challenging and frustrating when working with systems that don't understand their community or needs. The services the state may offer are too often geared toward mainstream ideas of family and community and are also located long distances from tribal members' homes. For states, the overlay of federal Indian law and tribal law often seems confusing and out of step with state practices, raising questions about how to proceed. An additional concern for states is what their liability for services to tribal members is, especially on tribal lands. For both parties, budgetary concerns are important, sometimes creating a tug of war over who will pay for services.

On the Three Affiliated Tribes of Fort Berthold Reservation, Janet Gunderson, a child welfare professional, has been thinking about the process she encountered while trying to adopt her child Jordan Rose. While her tribe has been operating a Title IV-E foster care program through an agreement with the state for several years, the tribe has been unable to secure funding for the Title IV-E Adoption Assistance program.

When Janet first met Jordan, she (Jordan) had just came from the hospital after having surgery for congenital heart disease. At this time, she was temporarily placed with the Gundersons until a more permanent placement could be found. After the placement with Janet and her husband extended to 18 months, the Gundersons informed the tribe that they would like to be considered as prospective adoptive parents for Jordan. For the first four years of her life, the Gundersons took her to frequent doctor's appointments 80 miles away because of her fragile heart.

Eventually, Janet and her husband were able to adopt Jordan and asked that the adoption be subsidized because of her heart condition, which placed Jordan in a position to be considered a special needs child and eligible for Title IV-E adoption assistance subsidies. Janet, understanding some of the eligibility criteria for Title IV-E, asked that this request and Jordan's circumstances be put into the court order granting her adoption, which it was. However, the tribe was never able to access any of the subsidy through Title IV-E despite her fragile medical condition and clear eligibility. The county stepped out of the picture once the adoption was finalized, later saying that the "adoption was not done according Title IV-E specifics." This reference was apparently related to the court order not being client specific enough. The Gundersons were faced with little they could do but try to find private insurance to help with the intensive medical services that Jordan required at first. This quickly became a very difficult and expensive option.

Janet and her husband have no regrets about their decision to adopt Jordan but still feel angry about the problems they encountered. Some of Janet's most intense feelings come from the knowledge that the county was involved with Jordan from the first day she came to the Gundersons in foster care. The county arranged for the Gundersons to receive Title IV-E foster care subsidies for Jordan, while also having full knowledge about Jordan's medical condition and the hardships involved for the Gundersons. Nonetheless, they failed to direct the tribe on how to ensure that Jordan received adoption assistance benefits.

While this story has a happy ending for Jordan and the Gundersons, Jordan's health is still a concern to her adoptive mother. The months of frustration, hardship, and expense that the Gundersons experienced were unnecessary and most likely would not have occurred if the tribe had been in control of the Title IV-E Adoption Assistance program. One can try to blame the tribal court for not adhering exactly to the specific criteria for court orders under Title IV-E, but in reality, the mistake was a simple one that came about from a lack of service coordination between two separate jurisdictions. The consequence of which became the burden for the adoptive parents and Jordan.

Again, thank you for the opportunity for the National Indian Child Welfare Association to testify before this Committee. We should now seize the opportunity before us in welfare reform reauthorization to provide every Indian child the opportunity to grow up knowing a permanent and stable home comparable to that provided to other eligible children throughout the United States. It is time to make the Title IV-E entitlement program an entitlement for all children.

Testimony of Stephen Cornell[1]

Senate Committee on Indian Affairs
United States Senate
Washington, D.C.
May 10, 2002

I have been asked to testify about the results of a study that I co-directed, completed last year, on the impact of welfare reform on American Indians and Alaska Natives. In the spring of 2001, the National Congress of American Indians (NCAI) asked two organizations to join together to provide them with an overview and evaluation of the experience of American Indians with welfare reform, and in particular of the impact on American Indians and Alaska Natives of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). The two organizations were the Kathryn M. Buder Center for American Indian Studies in the George Warren Brown School of Social Work at Washington University, St. Louis, and the Native Nations Institute for Leadership, Management, and Policy in the Udall Center for Studies in Public Policy at The University of Arizona. Dr. Eddie F. Brown, director of the Buder Center at Washington University and I, director of the Udall Center at The University of Arizona, jointly supervised the study, which we delivered to NCAI at their annual convention in November, 2001.[2]

This testimony summarizes key findings from that study. I should note that the conclusions I am presenting in this testimony are not mine alone but represent the findings of the research team as a whole.

Methods

The funding available for this study was sufficient to support only modest field or survey research. Therefore, the study team employed four methods to analyze the impact of welfare reform. First, we reviewed all the available printed or internet accessible research, commentary, and opinion we could find that either looked at welfare issues among American Indians and Alaska Natives or seemed to offer relevant insights. These sources ranged from government and academic studies to testimony by tribal leaders to commentary by state officials to journalistic accounts of welfare issues.

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[1] Stephen Cornell is the Director of the Udall Center for Studies in Public Policy at The University of Arizona, where he also is Professor of Sociology and of Public Administration and Policy. He co-founded and today co-directs the Harvard Project on American Indian Economic Development.

[2] The full report is Eddie F. Brown, Stephen Cornell, Miriam Jorgensen, Leslie S. Whitaker, Melinda Springwater, Michelle Hale, and Ami Nagle, "Welfare, Work, and American Indians: The Impact of Welfare Reform. A Report to the National Congress of American Indians." Dr. Eddie F. Brown and Dr. Stephen Cornell directed the study; Dr. Miriam Jorgensen oversaw preparation of the final report. The report is available in pdf format on the Udall Center website <udallcenter.arizona.edu>.

Second, Eddie F. Brown and Melinda Springwater carried out a mail survey with telephone follow-up of all tribal Temporary Assistance for Needy Families (TANF) program administrators, asking 44 questions on an array of issues related to TANF and associated programs. Of the 34 administrators, 28 completed the survey, providing critical information for our report.[3]

Third, various project staff had a number of less formally organized interviews and discussions with TANF staff, federal TANF officials, state officials, tribal leaders, and other professionals directly involved in welfare programs in Indian Country, as well as with a small number of welfare recipients. Some of these were carried out by telephone; others were done in person at conferences, in tribal offices, and elsewhere.

Finally, various members of the research team attended a number of conferences and meetings on Indian welfare reform in the summer and autumn of 2001, where we were able to listen to an increasingly vigorous debate in regard to these matters.

Welfare Reform and Tribal TANF Programs

The welfare reform legislation of 1996 offered Indian nations the opportunity to design and administer their own TANF and child support programs. Instead of requiring tribes to work through state governments to receive federal dollars for these social programs, this legislation allowed tribal governments to contract directly with the federal government. As of October of 2001, 34 tribal entities (both individual tribes and consortia of tribes) had taken over administration of their own TANF programs. These 34 programs included more than 170 tribes in 15 states and served between one third to one half of all American Indian and Alaska Native families enrolled in TANF. The other half to two thirds of these families were being served by state TANF programs.

While not all tribes have elected to take over administration of TANF and related programs, there have been substantial advantages in doing so. Direct control and the flexibility and design discretion that Congress has permitted have allowed tribes, in turn, to design programs that speak directly to distinctive reservation needs and circumstances. It also has improved the accessibility of welfare-related services, moving service provision closer to the populations being served and allowing those services to be more responsive to those populations. In effect, the law has both expanded opportunities for tribal self-government and improved the quality of reservation welfare services.

Despite these advantages, many tribes have elected *not* to take over TANF. The primary reason appears to be financial: tribes have received fewer resources than states for program administration and support and lack alternative resources that they can use to make up the shortfall. In addition, tribes face some challenges—such as transportation needs—that are particularly burdensome and that they have insufficient resources to address. As a result, a significant number of tribes that wish to run their own TANF programs have been unable to do so.

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[3] Eddie F. Brown and Melinda Springwater, "Tribal TANF Administrator Survey," raw data, Kathryn M. Buder Center for American Indian Studies, George Warren Brown School of Social Work, Washington University, St. Louis, 2001.

Is Welfare Reform Working in Indian Country?

Since 1996, welfare reform in the United States appears to have been successful at reducing welfare caseloads in many states and moving substantial numbers of welfare recipients into jobs for at least some portion of the year. However, while the aggregate picture is in some ways encouraging, the detailed picture is more mixed. Particularly in the more rural areas of the United States, welfare rolls often have remained stubbornly high, and it is not clear that similar proportions of those leaving the rolls have found jobs or kept them.

These areas include many of the Indian reservations of the United States and many Alaska Native communities. Here, welfare reform has been much less successful. While many states have seen significant drops in overall welfare caseloads, American Indian caseloads have not dropped as fast. In Arizona, for example, while overall caseloads had fallen 59% by 2000, American Indian caseloads dropped only 40%, and on some reservations, the number of caseloads increased. In South Dakota, caseloads overall dropped 69% since the implementation of welfare reform but dropped only 9% among American Indians. In Montana, caseloads overall dropped 26% but *increased* 0.5% among American Indians.[4]

A predictable result of such differential caseload declines is that, in a number of states, American Indians increasingly dominate the welfare rolls as urban or semi-rural non-Indians make the transition to work and rural Indians fail to do likewise. In 1996, for example, Indians made up 60% of the welfare rolls in South Dakota; by 1999 that figure had risen to 76%. In 1996, 43% of the welfare rolls in North Dakota were Indian; by 1999 that figure was 58%. In 1996, Indians were 36% of the welfare rolls in Montana; in 1999 they made up 50% of the rolls.[5] In such areas, one result of welfare reform has been to make welfare increasingly "Indian."

While information on the impact of welfare reform on Indian family and community well-being is much more difficult to come by—very little systematic research has been done—the sparse data that are available are not encouraging. The U.S. Department of Health and Human Services has funded one longitudinal study of the effects of welfare reform on American Indians. This study—still underway—examined three tribal communities in Arizona. Among the findings to date: nearly a quarter of American Indians who had moved from welfare to work under the new legislation had stopped working within three months, and half were not working after one year. Only a small portion of those who had made the move were working full-time. Even among those with full-time employment, there was evidence of widespread hardship. Forty-five percent of the respondents to the study reported that they were unable to afford enough food for their families, and 21% reported that gas or electricity had been turned off because of their inability to pay utility bills. Respondents reported an average hourly wage of $6.80 (average monthly wages of $591), which is insufficient to lift their families above the federal poverty line. Finally, it appears that approximately 40% of those in these three communities who had left the welfare rolls did so without any employment at all.[6]

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[4] Shanta Pandey and Eddie F. Brown, "Implementation of the Temporary Assistance for Need Families (TANF) Program on American Indian Reservations: Early Evidence from Arizona," U.S. Department of Health and Human Services, 1999; Shanta Pandey and Min Zhan, "How Are Families Faring under Welfare Reform?" U.S. Department of Health and Human Services, 2000; Administration for Children and Families, U.S. Department of Health and Human Services, "Temporary Assistance for Needy Families (TANF) Program: Third Annual Report to Congress," Office of Planning, Research, and Evaluation, 2000.

[5] Vee Burke, "Indian Tribes and Welfare Reform," Congressional Research Service, Washington, DC, 2001; Administration for Children and Families, U.S. Department of Health and Human Services, "Temporary Assistance for Needy Families (TANF) Program: Third Annual Report to Congress," Office of Planning, Research, and Evaluation, 2000.

These findings are limited to the three tribes involved in the Arizona study; however, discussions with tribal TANF administrators and others familiar with welfare reform in Indian Country have lent them broad anecdotal support.

Reasons Why Welfare Reform Is Doing Relatively Poorly in Indian Country

There are a number of reasons why welfare reform is doing relatively poorly in Indian Country. More detailed findings are presented in our full report, but I will focus here on six factors that appear to explain much of the difference in outcomes: inadequate TANF funding, distinctive populations of welfare recipients, job scarcity, transportation, child care, and inadequate skills and job training.

Inadequate Funding

While being asked to accomplish the same things as states, Indian tribes have been denied some of the program resources that states have received. Compared to states, tribes suffer a variety of funding inequities. For example, states were able to choose from three funding formulas in determining TANF grant amounts, but tribes had no such choice. Instead, a tribe in a given state receives an amount based on the 1994 payment made by the federal government, under the Aid to Families with Dependent Children (AFDC) program, to that state for American Indian families living in specified service areas. Because most states did not keep AFDC data broken out by American Indian race/ethnicity, it is widely accepted that the 1994 data on which these payments were based were not reliable, typically undercounted eligible families, and diminished the funding available to tribal programs.

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[6] Pandey and Brown, op. cit.; Pandey and Zhan, op. cit.; Shanta Pandey, Eddie F. Brown, Ming Zhan, Sarah Hicks, and Patricia Welch, "State of Welfare Families on Reservations: Progress, Setbacks and Issues for Reauthorization." Working paper, Kathryn M. Buder Center for American Indian Studies, George Warren Brown School of Social Work, Washington University, St. Louis, 2001.

A less obvious funding hurdle is the lack of federal funding for infrastructure development and program start-up. Unlike states, which have received federal support for infrastructure building over the last 60 years of AFDC administration, tribal TANF programs do not receive support costs and start-up money from the federal government. This differential investment means many tribes, unlike states, take on TANF administration from a standing start, without the benefit of the administrative infrastructure that states have spent years developing. Some tribes have had to invest considerable sums of their own over and above federal TANF monies to get their programs off the ground, but many Indian nations, such investments are impossible: they simply lack the necessary resources. It is these sorts of funding issues that have discouraged many tribes from taking over TANF programs.

Other funding inequities include the fact that tribes receive none of the bonuses offered to states for reducing caseloads, unwed births, or teen pregnancies. Tribes also are not eligible (as states are) for funds to evaluate their programs—resources that have very useful to states.[7] Finally, states are not required to contribute TANF Maintenance of Effort (MOE, or matching funds) to tribal TANF programs. While most states have opted to provide MOE to tribal TANF programs, those tribal programs that operate without MOE are serving their populations with 30-50% fewer resources than were available for their populations in 1994.

These funding shortages translate into shortages in staff, staff training, and services, limiting program effectiveness.

Distinctive Populations to Serve

The resource inequities noted above are exacerbated by the fact that tribal TANF populations typically include higher proportions of what are known in the literature as "hard-to-serve" clients who face multiple barriers to employment. A number of factors have contributed to this. Generations of dependency and economic stagnation (or worse) have produced reservation populations with high proportions of residents with little work experience and few job skills. Reservation populations also are relatively young and have historically low levels of education. In addition, deeply entrenched poverty, inadequate social services, high rates of certain kinds of diseases, and the scarcity of effective programs dealing with mental and behavioral health issues on reservations have produced some reservation welfare populations with a high proportion of individuals suffering from emotional, psychological, or behavioral problems that complicate the move from welfare to work. These inexperienced or troubled populations are particularly difficult—and expensive—to serve and often require complex programmatic responses that effectively integrate a variety of services.

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[7] See National Academy Press, *Evaluating Welfare Reform: A Framework and Review of Current Work,* interim report. Washington: National Academy Press, 1999.

Of course many states and counties have faced similar phenomena, but only after significant caseload declines—that is, after the most able workers have left the welfare rolls. Yet many tribal communities (similar to other rural communities facing extreme poverty) have not seen comparable declines in caseloads. This suggests that tribal programs have proportionately more "hard-to-serve" clients. It also means that these programs typically have had to focus more of their attention and energy on helping tribal welfare recipients overcome significant barriers to employment that are rooted not solely in external circumstances but in individual client histories as well. Anecdotal reports from TANF program staff are that many clients have deeper and more multi-faceted needs than anticipated.

Consequently, even if "dollars per client" were equalized between state and tribal cases, the "dollars necessary per positive outcome" would remain unequal, as many reservation populations are proportionately more costly to serve.[8]

Job Scarcity

Job scarcity is an overwhelming barrier to TANF program success in Indian Country. Program managers on many reservations—particularly rural ones—confront an enormous "job gap": the difference between the size of the labor force, including discouraged workers, and the number of jobs generated in local economies. In such conditions, *everyone*—not just welfare recipients or "hard-to-serve" populations—has difficulty finding jobs.

This fact is apparent in reservation unemployment rates. Rural Indian reservations, like other rural areas, did not experience the same degree of job growth and increased employment that much of the U.S. experienced in the late 1990s. Reservation unemployment and poverty rates remained discouragingly high in these years. According to the Bureau of Indian Affairs, average unemployment across all Indian reservations in 1999 was 43%; on some rural reservations it was in the 70 and 80% range or higher.[9] There is no reason to believe there has been any significant decline in these rates since then.

Under such conditions, many of those leaving the welfare rolls face a stark set of options: either leave their homelands in search of work somewhere else—by no means a guaranteed choice and an extremely difficult one for many reservation families—or rely on the already-overburdened, informal family support networks through which many reservation residents, trapped deep in poverty, struggle to survive.

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[8] See Sarah L. Hicks and Eddie F. Brown, "The Future of Welfare Reform: Considerations for Reauthorization." Washington: National Congress of American Indians, 2000.

[9] U.S. Department of the Interior, Bureau of Indian Affairs, Office of Tribal Services, "Indian Labor Force Report, 1999." Washington: Bureau of Indian Affairs, 1999.

Current welfare policy has paid little attention to this problem. In a sense, the supply side has been ignored: moving people from welfare to work is an admirable policy goal, but it has little chance of success if there is no work to move to. Where will the jobs that reservation welfare recipients need come from?

One response by some tribes has been increased efforts at public-sector job creation, expanding tribal government so as to absorb more of the unemployed. But this strategy holds little long-term promise. It is politically risky, tying employment to government funding decisions, many of which are outside tribal hands. It is economically limited because public sector activity lacks the dynamic, inherent, job-creating potential that productive economic activity offers. Finally, it is unlikely to produce anything like the number of jobs that reservation economies need.

This points to a major shortcoming in welfare programs in Indian Country: the lack of attention in federal policy to reservation economic growth.

Transportation

Even if there were significant numbers of new jobs available in Indian Country, reservation residents face other obstacles to employment. The two obstacles most often mentioned by program directors, welfare recipients, and others to whom we talked were transportation and child care.

The lack of transportation is an enormous obstacle facing welfare recipients trying to obtain and keep employment on many reservations. The distances many people must travel to work on large, rural reservations are often long. Large numbers of Indian families—in the Arizona study, it turned out to be a majority of welfare recipient respondents—do not own an automobile. Public transportation is almost completely absent. This combination of factors leaves many TANF recipients effectively stranded. In a very real sense, moving from welfare to work is impossible for many reservation residents because there is no way for them to get there.

There are some federal programs, such as the Access to Job and Reverse Commute Grants, which are intended to assist states and localities in developing new or expanded transportation services that connect welfare recipients to jobs or employment services. However, tribal access to these funds has been limited. This particular program requires a state letter of endorsement and a 50% tribal funding match, and its priorities reflect a federal emphasis on projects that already use mass transportation. Tribes typically have few funds for the required match, and most rural reservations have no mass transportation at all.

In short, the transportation problem is substantial, but tribes have few funds to deal with it.

Child Care

The other frequently mentioned obstacle to work force entry by welfare recipients is the lack of child care services. The 1996 legislation expanded the Child Care and Development Fund (CCDF), which assists low-income families and those leaving welfare in obtaining child care so that they can participate in training and education and, ultimately, go to work. Tribes can take advantage of these funds and have considerable flexibility in doing so. In addition, PRWORA increased certain funds that tribes could use to support child care. These developments have had positive effects, although CCDF expires this year.

Even with these additional funds, however, child care services in Indian Country are inadequate to the need and constitute a significant obstacle to employment for many reservation residents who have no access to child care options. Many of the currently available services or programs run into other problems as well. Some Indian families distrust large child care centers or have difficulty—thanks to the transportation problems already discussed—getting their children to centers that are far away. For cultural reasons, many Indian families also prefer Indian service providers, who are often in short supply.

This points to what tribal TANF administrators reported as the single largest barrier to effective child care delivery to TANF clients: the lack of qualified child care providers. Solving this problem will require recruitment and training—for which there are few funds.

Inadequate Skills and Job Training

Successful movement of welfare clients into sustained employment also depends on client skills and knowledge and on clients' ability to function successfully in work environments and in specific job situations. As already noted, many reservation populations are young and have limited work experience. In addition, many welfare clients need improved skills and training if they are to be successful in the labor force. Finally, there are significant numbers of persons in reservation welfare populations who suffer from various kinds of behavioral health problems, such as substance abuse, that confront tribes with complex training and treatment tasks. This combination of factors makes the tribal job and skills training challenge a daunting one.

A number of federal programs provide direct funding to tribes so that they may provide employment services and training to tribal citizens living on or near reservations. Several of these programs, such as the Department of Labor's Welfare-to-Work (WtW) program and the Native Employment Works (NEW) program in the Department of Health and Human Services, are targeted at TANF recipients; others target a broader Indian service population.

However, despite enormous needs, federal funding for tribal employment and training programs has not increased at all since PRWORA, with the sole exception of the two years of tribal WtW funding. The NEW funding level was frozen by PRWORA. Meanwhile, the constant dollar value of Indian funding under first the Job Training and Partnership Act of 1982 (JTPA) and now the Workforce Investment Act of 1998 (WIA) has declined by more than 50% in the last decade and a half.[10] In short, a critical piece of the welfare-to-work puzzle is severely underfunded in Indian Country.

One federal law that has been of great advantage to some tribes is Public Law 102-477, the Indian Employment, Training and Related Services Demonstration Act. This law allows tribes that receive funding for several employment-related programs to combine these resources and integrate diverse employment, training, and related services (such as child care), even if these services are funded by different federal agencies. Integration allows tribes to pool resources, operate programs under a single plan, single budget, and single reporting system, and focus more on client needs than on federal program priorities. The law provides no additional funding, and not all eligible tribes have chosen to participate in the provisions of the Act (which requires application to the Secretary of the Interior). But tribes participating in 477 report that the Act serves its facilitative purposes. They have been able to save staff time, reduce paperwork, reallocate funds, and respond where needs are greatest. Many have established "one-stop" welfare service operations that are much easier for welfare clients to deal with. In particular, the 477 tribes report serving substantially more people and improving the effectiveness of their services.

In view of the paucity of funding for training and employment services in Indian Country, programs such as 477 that allow pooling of resources and integration of services become even more important, for they allow Indian nations to bring local knowledge and experience to bear in the allocation of funds and the ground-level organization of programs, greatly increasing potential program efficiencies. Programs such as 477 are an important component of the welfare system and deserve support.

Conclusion

Our study looked at a number of other welfare-related program areas, such as child support enforcement, Medicaid, and the Food Stamp Program. Our full report includes additional details not only on these programs but on the findings summarized in the preceding pages.

Our primary conclusion is that the combination and concentration of obstacles to welfare reform on Indian reservations means that current welfare policies are bound to fail in much of Indian Country. In the areas of TANF administration, transportation, child care, and job training, funds are simply inadequate to the task that Indian nations face. The obstacles to employment are enormous; the available resources are modest.

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[10] Norm DeWeaver, "Constant Dollar Value of Indian Job Training Programs, 1984-2000." Indian and Native American Employment and Training Coalition, Anchorage, Alaska, 2001.

We are particularly concerned by the fact that current policy largely ignores economic growth as a welfare reform strategy for Indian Country. Even if the funding problems with TANF and its related training programs can be solved—and these are substantial—and even if federal policy were to provide Indian nations with more flexibility and control over the design and implementation of reform—and we believe it should—a sobering fact remains: without an economic growth strategy—that is, without jobs—welfare reform in Indian Country will fail. Either it will drive significant numbers of tribal citizens further into poverty as they lose support and find no alternatives, or it will force large numbers of them to leave their homelands in search of employment, undermining tribal communities and embittering Indian peoples. Neither outcome is acceptable to Indian nations, and neither outcome should be acceptable to the United States.

Finally, much of what is known about welfare reform and American Indians comes from a very small number of studies, a broad pool of anecdotal information, the insights of practitioners working in TANF and related programs, and inferences drawn from work on non-Indian populations. These sources are significant, but they leave some of the most important questions about welfare reform and its impacts in Indian Country unanswered. As the reauthorization debate on PRWORA gets underway, we simply do not know much of what we need to know. The decision-making that lies ahead will lack much of the grounding in reliable information that good policy-making requires.

In the meanwhile, welfare policy—whatever concrete form it takes—will continue to play a disproportionately large role in the lives of Indian people. As much as any population in the country—and more than most—they will bear the direct effects of welfare policy decisions. Surely they deserve policies built on reliable knowledge of the impact reform has had and of the ways it might be improved.

Some key areas in which additional research and evaluation are sorely needed:[11]

1. What happens to those who leave the welfare rolls?

At the state level, leaver studies have been critical in helping policymakers understand how well their TANF (and related) programs are operating. There is almost no such information on American Indians. This makes it difficult for tribes to know how well their programs are working and for states to determine how program impacts vary among different state populations.

2. How do the impacts *on Indians* of tribally run TANF programs differ from the impacts *on Indians* of state-run TANF programs?

American Indians' option to receive TANF services under either a state or tribal program (but not both) raises this key research question, but no systematic study has been done, across states, of how Indians fare under the two types of policy regime.

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[11] A more complete research and evaluation agenda, with considerably more detail, is outlined in the full report.

3. What effect does TANF have on migration onto and off the reservation?

Migration by welfare recipients or former recipients has direct effects both on the burdens borne by state and tribal programs and on the burdens borne by welfare-receiving individuals and their immediate and extended families. Similarly, state or tribal program specifics may have direct effects on migration. Apart from small-sample studies and anecdotal evidence, we simply don't know what the relationship is between TANF and the movement of Indian populations.

4. How effective are current employment and job training efforts?

We know very little about how effective job training efforts are in either (1) preparing welfare clients to obtain and retain jobs or (2) assisting tribes in improving the skills of their labor pools in ways that are linked to—and thereby support—tribal development strategies.

5. On any reservation, what is the state of the job supply, what is the state of the labor supply, and how can the two be linked?

Studies of reservation job supplies are scarce, but they can make a critical contribution to the effort to design policies that address local needs. Without such studies, it is difficult to appreciate the challenge that welfare reform faces in Indian Country. Additionally, few tribal governments have a reliable, detailed idea of the nature of their own labor force, but such information could help guide investments in job training and development. The two bodies of information together could help tribes provide better services to their people.

6. How can data gathering and evaluation efforts be revised to accommodate tribal priorities and circumstances?

Systematic data gathering on tribal TANF programs, related programs, and their results is rare, crippling both tribal and federal efforts to develop more effective and efficient welfare policies. Furthermore, evaluation standards reflect federal and state priorities. Subject to federal and state funding decisions, tribes have to conform to federal and state reporting practices. But these seldom take tribal priorities or distinctive reservation circumstances into account.

7. What specific federal and state policies would assist tribes in creating sustained, self-determined economic growth?

Without economic growth, welfare reform on many reservations is unlikely to be successful. What practical policies will support reservation economic growth?

STATEMENT FOR THE RECORD
EMILY STOVER DeROCCO
ASSISTANT SECRETARY FOR EMPLOYMENT AND TRAINING
U.S. DEPARTMENT OF LABOR

FOR THE MAY 10, 2002 HEARING
COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to submit a statement for the record on workforce investment programs for Indians and Native Americans, including programs designed specifically to enable Indians and Native Americans to leave public assistance. This responds to Committee Counsel's request to discuss job training in the President's welfare reform proposals and in Department of Labor programs and initiatives.

The Administration's proposal regarding the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) was discussed in testimony before the Committee on March 5th by Clarence Carter, Director of the Office of Community Services of the Administration for Children and Families at the Department of Health and Human Services. The proposal would reauthorize without change most of the provisions in current law related to the Temporary Assistance to Needy Families (TANF) for Indians and Native Americans. Tribes would continue to administer TANF, if they so choose, and the Native Employment Works (NEW) programs, which currently provides grants to 79 Tribal organizations, would continue as before. The President's budget requests level funding for both programs. The Administration has proposed to use technical assistance funds to help tribes operate tribal TANF and NEW programs. Tribes will also be able to benefit from the proposed demonstration and research projects that are intended to promote family formation and healthy marriages, as Mr. Carter noted in his testimony. We defer to the Department of Health and Human Services to provide specific information on how other parts of the President's proposals to reauthorize TANF might affect Indian and Native American recipients or administrative entities.

The Department of Labor continues to administer job training programs specific to Indians and Native Americans. These include the year-round adult and youth programs and the supplemental youth services authorized under Section 166 of the Workforce Investment Act (WIA), both of which are set to expire in June 2004 when the authorization for WIA ends. The Department also administers the Indian and Native American Welfare-to-Work (INA WtW) Program, authorized under the Social Security Act, and has issued procedures to enable tribal grantees with remaining WtW monies to expend them over a longer time period, up to September 30, 2004 in some cases. Funds have also been provided by the Department to Indian and Native American grantees from "mainstream programs," including competitive grants of $29 million for youth programs, $6 million under the Senior Community Service Employment Program to subsidize part-time community service jobs for about 700 low-income Native Americans age 55 years and older, and National Emergency Grants to Native American entities to serve dislocated workers. In some labor markets, Indians and Native Americans are major customers of the mainstream One-Stop Career Centers.

The President's 2003 budget proposes to fund the WIA Section 166 programs for a total of $70 million.

The Department of Labor has strongly supported integration of employment and training services at the local level as a way to increase administrative efficiency, enhance the quality of services and improve outcomes for participants. We are supportive of efforts that combine resources at the tribal level under the demonstrations authorized by Public Law 102-477, if these efforts result in greater efficiency, better accountability and higher performance. Currently, 48 tribal and Alaska Native entities participate in the demonstration, 44 of which receive WIA section 166 funds. Approximately 20 of the INA-WtW programs are integrated with NEW programs at the tribal level under a "477" demonstration as well.

The Department of Labor is currently engaged in an extensive effort to solicit ideas regarding reauthorization of WIA, including its relationship to the TANF program. As part of the outreach effort, we have published a discussion guide in the Federal Register, held forums in a number of cities, and created a website to obtain comments. The issues we wish to address concern how the programs can work together better and how we can best assure accountability and high performance. We welcome and are actively soliciting responses from our Indian and Native American grantees and partners. We have asked the Native American Employment and Training Council for their views, and we hosted a panel on May 20th devoted specifically to reauthorization issues at the National Indian and Native American Employment and Training Conference. Recommendations from those sources will be considered in crafting Administration proposals on WIA provisions related to Indians and Native Americans.

We share the interest of our Indian and Native American partners in how programs serving similar populations and providing similar services, but funded through other agencies, will be administered in relation to Department of Labor programs. We believe that strong relationships between partner programs, effective coordination and integration of services, and high levels of accountability are possible and desirable. But if we want to make a real difference in helping Indian and Native American parents escape dependence on public assistance, we must look beyond questions of how services will be arrayed and who will manage them. We also must look at how we can promote formation of healthy families, as in the President's proposal on TANF, and how we can assure the growth of businesses and industries that will create the jobs that offer a true alternative to dependence.

We look forward to working with the committee on devising ways both to further improve the delivery of services and to meet these broader goals.

Mr. Chairman and Members of the Committee:

My name is Julie Quaid; I am the Chairperson of the National Indian Child Care Association. The Association is the representative body of Tribal grantees of the Child Care and Development Block Grant. Two hundred sixty two grantees, representing more that 500 tribes and tribal organizations, received Child Care and Development Block Grant funds in 2002.

I would like to thank you for the opportunity to join you today to share comments from the National Indian Child Care Association about the importance of quality child care in Indian country. We appreciate your commitment to insuring that the needs of our tribal children and families are not overlooked during the reauthorization of welfare reform legislation and the Child Care and Development Block Grant Act.

The United States Government affirmed its trust responsibility toward American Indians and Native Alaskans through direct funding of the Child Care and Development Block Grant to tribal governments, supporting tribal sovereignty and local control of programs for tribal citizens. Tribes must continue to administer these programs to meet the unique needs of tribal communities. As the Child Care and Development Block Grant is reauthorized we urge you, the members of the Senate Committee on Indian Affairs to demonstrate your leadership in insuring that all provisions in proposed child care reauthorization bills will insure direct access to funds for tribes.

Since the passage of the Personal Responsibility and Work Opportunities Reconciliation Act of 1996, new investments in child care have given tribes the opportunity to expand their child care programs. We find however, that these investments are not sufficient to meet the needs of Indian families. Nationally, statistics indicate that only one in seven children eligible for assistance is receiving help.

The child care coordinator from a tribe in California indicates that the tribe has only enough funding to operate a child care facility for 15 children, yet close to 400 children in the community could benefit from a tribally operated child care program.

With a poverty rate approaching 50% in Indian country, and nearly 54% of Indian children being born to unwed mothers, child care funding is critical to families who are working and transitioning off public assistance to pursue work and educational opportunities. Helping pay for child care is critical to some low income families' ability to obtain and retain employment.

30% of tribal grantees receive less than $60,000 annually to provide child care services. 45% of tribes receive less than $100,000 in federal child care funding. With current funding levels, tribes are struggling to provide financial assistance to low income families and insure that children are in much needed quality environments. The cost of care nationally, averages $4,000 to $10,000 per year for a preschool child. It is evident that current funding is significantly inadequate to meet the needs of the Indian community.

Tribes currently receive from 1 to 2% of the Child Care and Development Block Grant funds. The number of tribes participating in CCDBG has increased from 226 in 1994 to 262 in 2002, tribal child counts continue to increase each year as tribal populations grow. The 1995 U.S. Census Report of Population Projections indicates that the American Indian Population is expected to make up an increasing share of the U.S. population. As the population continues to grow, an increasing number of Indian families will be in need of child care services, for without adequate child which enables parents to work, the aim of self sufficiency for families will not become a reality. An increase in the tribal set aside is essential for continued services.

Cherokee Nation in Oklahoma is currently providing assistance with the cost of child care to over 3,000 children's families annually, so that they can continue to work. In FY 2001 the Cherokee Nation's monthly family caseload increased by an average of 26%, current funding levels will not allow the continuation of the same level of service. The tribal child care administrators are currently in the process of developing new eligibility guidelines for families, raising income guidelines and family share for the cost of care

so that they will not be forced to develop a waiting list for families needing support to maintain employment. This places a huge financial burden on families who are already struggling to make ends meet, the working poor.

Unlike states, which rely heavily on transfer funds from TANF, and use funding from the state tax base to supplement child care services, most tribes rely solely on the CCDBG for child care funds. Without additional funding, tribal governments will be unable to continue to provide assistance to eligible families and to ensure that all families have access to quality child care.

Already tribes have been forced to make cuts in tribal programs, a tribe in New Mexico had to eliminate all school-age care last year due to limited funds. Even though they gave advanced notice to families, alternate care options were not available in this community. Many of those children who had been in appropriate school age environments, became "latch key" kids or were placed in substandard care.

The United States government, through the Constitution, treaties, Supreme Court decisions, executive orders, and existing federal policies recognized the right of tribes to self govern. In 1996, during the reauthorization of the Child Care and Development Block Grant, law was enacted which is in direct violation of tribal sovereign powers.

The Child Care and Development Block Grant Act, as amended states that, " the Secretary [of Health and Human Services] in consultation with tribes and tribal organizations, shall develop minimum health and safety standards□" The National Indian

Child Care Association strongly supports the assurance that Indian children are in healthy and safe environments, however tribal governments must be the final authority in determining and developing the contents of the standards by which the facilities under their jurisdiction are governed. The United States Government allows all 50 states the discretion of developing their own health and safety standards, yet has chosen to impose standards for tribal governments. Not only is this an imposition on tribal sovereignty, it is unrealistic to believe that one set of standards would be appropriate for 262 tribal grantees, ranging in geographic location from Alaska to Florida.

The National Indian Child Care Association Advocacy Agenda for 2002 details additional provisions of reauthorization supported by the membership. The agenda includes the top seven recommendations voted on by the membership. I am requesting to submit the paper as part of this testimony.

Although our agenda did not speak directly to the provisions of quality care we recognize that there has been growing research and national attention focused on the impact of children's early experiences and their ability to learn and succeed when they enter school. With 65% of women with children under the age of six in the workforce, an increasing number of children are spending their early years in child care. As poverty rates in Indian country approach 50%, Indian children are at greater risk of poor educational performance. Children of low income families score significantly lower on reading, math, and vocabulary tests when compared with otherwise children. Quality care child care experiences can significantly impact the abilities of Indian children to be successful later in life, yet with limited funding, tribes must often make choices between affordability and quality of child care for low income families. With insufficient CCDBG dollars, we must choose between offering financial assistance to low income families who need help paying for care and supporting activities to enhance the quality of child care and insure our children are in programs which provide for their positive development.

Tribes are currently required to spend a minimum of 4% of funds on quality activities. We use these funds to monitor facilities to insure that children are in safe environments, provide information and referral to parents in need of child care, train child care staff, offer grants so that child care facilities can make needed improvements to meet standards of care and other activities to improve the quality of care for Indian children. Sufficient funding should be available to help tribes ensure that Indian children are in high quality care, and not choose between quality and the cost to families.

I thank you for this opportunity to share with you the challenges that face Tribal communities as we put forth effort to insure that tribal families have the necessary tools to become self sufficient. Child care is a critical component in these efforts. Funding must be increased to help more low income Indian families afford good care, and to work toward improving the quality of care which is critical to our children's development and future success. We ask that you acknowledge the sovereignty of tribal governments and the U.S. trust responsibility as you make important decision in child care.

ADVOCACY AGENDA
2002

National Indian Child Care Association

The National Indian Child Care Association is the recognized representative body of the Tribal Child Care and Development Block Grant Grantees. The Association was developed in 1993 to provide information, support, coordination and advocacy for Tribal child care.

Two hundred sixty-two Tribes and Tribal Organizations, representing more than five hundred Tribal governments received Child Care and Development Block Grant Funds in FY 2002. The Child Care and Development Block Grant is the single largest program authorized under the Personal Responsibility and Work Opportunities Reconciliation Act affecting tribal governments.

Participation in the Child Care and Development Block Grant allows Tribal governments the opportunity to design, implement and support programs which are beneficial to the unique needs of our tribal citizens. Child Care is an important support services to assisting Indian families to become self sufficient through education, training and employment.

This document entitled National Indian Child Care Association Advocacy Agenda - 2002, sets forth seven major goals for reauthorization of the Child Care and Development Block Grant which have been adopted by the Association.

Key Information
Tribal Child Care Programs

262 Grantees, representing over 500 tribes and tribal organizations received Child Care and Development Block Grant (CCDBG) funds in FY 2002, with tribal allocations totaling approximately $91 million, 2% of the Child Care and Development Block Grant.

Of 131 tribes who reported, 18,755 children received financial assistance from CCDBG funds in FY 2000.

According to Tribal Preprint Plans, additional services provided by CCDBG funds include child care referral for parents, resources for child care providers, grants and loans to assist providers in meeting standards, monitoring child care facilities for compliance with standards, training and technical assistance, consumer education and additional activities to improve the quality of child care.

In FY 2001, the tribal child count submitted by Child Care and Development Tribal Grantees indicates that there are approximately 480,000 Indian children residing in tribal service areas.

10 In FY 2001, Tribes and Tribal Organizations received approximately $90 million to provide child care for Indian children.

Since 1997, Tribes

GOVERNMENT TO GOVERNMENT

ISSUE: #1

Tribes must continue to receive direct funding from the federal government to provide child care services.

The United States Government has a trust responsibility toward American Indians and Alaskan Natives, and interacts with the tribes on a government-to-government basis. Direct funding to tribes supports tribal sovereignty and local control of programs for tribal citizens.

Indian tribes have demonstrated the ability to administer Child Care and Development Block Grant programs successfully and must continue to administer these programs per tribal services plan that meets the unique needs of tribal communities.

Current Legislative Status:

Section 418 of Title IV of the Social Security Act, (42 U.S.C. 618) and the Child Care and Development Block GRANT Act of 1990, as amended, authorizes a set aside for direct government-to-government grants to Indian tribes and tribal organizations.

Legislative Recommendations:

Retain legislative language, which provides for a set aside for direct grants to tribes and tribal organizations. Increase child care funding levels and add language that would require any new child care appropriations to include a tribal set aside.

5% FUNDING

ISSUE: #2

The number of Tribal Child Care Programs receiving funding through the Child Care and Development Block Grant has increased. The percent of set aside for tribes is currently 2% of the funding for the CCDF and has remained the same although services rendered by tribal child care programs have significantly increased. Increased funding to tribes is necessary to meet the child care needs of tribal citizens.

Tribes and tribal organizations currently receive two percent of the appropriation of the Child Care and Development Block Grant. There are 515 federally recognized tribal entities, which may be potentially eligible participants in the CCDBG program. Tribal grantees participating in the CCDBG have increased from 226 in 1994 to 262 in 2002.

Indian Health Services indicates a client increase of about 2% per year. The 1995 US Census Report of Population Projection indicates that the American Indian Population is expected to make up an increasing share of the US population. The Indian population is younger than the corresponding population for all races, 33% of the Indian population was under 15 compared to 22% for all races.

The number of children that are counted for purposes of CCDBG allocations continue to increase. As more tribal grantees participate in the CCDBG program and as the number of children increase, the allotment amount per child decreases. This is particularly detrimental to existing programs, which must reduce funding of all child care services to Indian families. This greatly affects the children of the families that are working to transition off of public assistance programs through work and educational opportunities.

With a poverty rate approaching 50% in Indian Country, an unemployment rate of about 35%, and nearly 54% of all Indian children being born to unwed mothers, child care services provided for under the Child Care and Development Fund are critical. Greater demands for child care are being placed on Tribal child care programs as a result of increasing population, increasing employment and education opportunities, and the time line for TANF as well as the higher poverty rates.

Direct services of child care implemented by Tribal programs help to alleviate the long waiting list for quality child care space. Demands for Tribal child care programs are high given the affordability, quality of care, and cultural sensitivity implemented in Tribally operated child care programs. As some tribes make better use of their construction and renovation funds and build more child care facilities, tribes will need additional funding to provide services in these areas of development.

Although demands on the tribal resources have increased, tribes do not have access to additional funding. States have a tax base that generates funds for necessary programs. States also have access to federal funding sources not appropriated to tribes that may be used for child care assistance, such as Title XX and additional discretionary funds earmarked for quality expansion, infant and toddler care, and resource and referral services.

Current Legislative Status:

Section 603 (b) of the PRWORA amended Part A of Title IV of the Social Security Act and the Child Care and Development Block Grant of 1990, by adding: Section 418 (a)(4) Part A of the Social Security Act, which states: "Indian Tribes – The Secretary shall reserve not less than 1 percent, and not more than 2 percent, of the aggregate amount appropriated to carry out this section in each fiscal year for payments to Indian tribes and tribal organizations."

Legislative Recommendation:

Amend the language in Child Care and Development Block Grant of 1990 and Section 418(a)(4) Part A of the Social Security Act to "not less than 5 percent." Include language that would require any new child care appropriations to include a tribal set aside.

HEALTH & SAFETY FUNDING

ISSUE: #3

The Child Care and Development Block Grant mandates tribes to enforce government issued minimum health and safety standards. Additional resources are needed to comply with legislative mandates.

Tribal programs provide funding to pay for child care in family child care homes and child care centers. Requiring Tribes to enforce health and safety standards that were developed by the federal government places a financial burden on tribal child care programs. It requires that tribes hire and train additional staff to monitor compliance with standards. Tribes must also provide financial resources to assist child care providers in meeting minimum standards. Many providers live in remote rural areas. Many smaller tribes only have one or two staff persons that are required to administer the entire program. Additional funding would be needed to pay for staff and expenses to monitor the compliance of the federally mandated health and safety standards.

Minimum Health and Safety Standards developed by the Secretary are in the process of being developed and implemented. The current legislation states that the standards will "appropriately reflect tribal needs and ***available resources***." However, the standards that have been developed will require that Tribes spend additional resources to ensure the accountability of child care providers implementing the proposed health and safety standards. Tribes do not have additional resources for Health and Safety, such as a state's tax base, Title XX, and the additional discretionary funds. Requiring tribes to implement the proposed Health and Safety Standards developed by the Secretary is an unfunded mandate.

Current Legislative Status:

The Child Care and Development Block Grant Act of 1990, as amended, states, "the Secretary in consultation with Indian Tribes and tribal organizations shall develop minimum health and safety standards (though no funding allocation was made to ensure that tribes have available resources).

Legislative Recommendation:

Provide additional funding to ensure the implementation of health and safety standards for Tribes.

HEALTH & SAFETY STANDARDS

ISSUE: #4

Indian Tribes and Tribal organizations should develop minimum Health and Safety Standards to be implemented by Tribal programs.

The United States Government, through the Constitution, treaties, Supreme Court decisions, Executive Order, statute and existing federal policies, recognizes the rights of tribes to self-government and those Indian tribes have inherent sovereign powers over their members. Through Executive Order 13175, issued November 6, 2000, Coordination and Consultation with Indian Tribes, states that "When undertaking to formulate and implement policies that have tribal implications agencies shall: 1) encourage Indian tribes to develop their own policies to achieve program objectives, 2) where possible, defer to tribes to establish standards." The current language in the Child Care and Development Block Grant, as it relates to the development of health and safety standards, is in direct conflict with the executive order.

Tribal entities should be the final authority on what types of issues need to be addressed to ensure the health and safety of their children. States develop minimum health and safety and licensing requirements that allows each state maximum flexibility in developing child care programs and policies that best suit the needs of children and parents within such state. Tribal governments should be afforded that same flexibility. One set of health and safety standards do not exist for 50 states. It is unrealistic to think that one set of standards is going to be appropriate for 262 tribal grantees (from more than 500 tribes).

Current Legislative Status:

The Child Care and Development Block Grant Act as amended, states that "□the Secretary, in consultation with Indian tribes and tribal organizations, shall develop minimum child care standards□"

Legislative Recommendation:

Amend the language in the Child Care and Development Block Grant by striking out the language that reads: "the Secretary, in consultation with."

Amend the Child Care and Development Block Grant to allow tribes to develop standards, which may be approved by the Secretary.

CHILD NUTRITION

ISSUE: #5

Tribal children in private child care centers that are receiving tribal subsidies should have access to the Child and Adult Care Food Program (CACFP).

Current Legislation:

The Child Nutrition Improvement Act of 1992 (P.L. 102-342) states that child care centers must have at least 25% of the enrolled children or 25% of the licensing capacity receiving Title XX assistance before the center is eligible for the Child and Adult Care Food Program (CACFP). Tribal grantees do not receive Title XX funds. Therefore, tribal children do not count towards the eligibility determination for participation in the food program.

Legislative Recommendation:

Continue legislative language as authorized in the Miscellaneous Appropriations Section (H.R. 5666) of P.L. 106-554, changing participation requirements to allow child care centers to participate in the CACFP if 25 percent of their enrolled children are eligible for the free and reduced-price lunch. Amend section 17(a) of the National School Lunch Act (42 USC 1766(a) by striking the reference to the Title XX assistance and reading "a private organization can participate in the food program if at least 25 percent of children are eligible for the free and reduced lunch."

CONSTRUCTION & RENOVATION

ISSUE: #6

Tribal programs have the option of allocating a portion of their funding for the construction or renovation of child care facilities as long as such an allocation does not reduce the level of current services offered by the Tribe. Provisions must be made for the continuation of long range construction plans when funding levels decrease.

Tribes, as well as the whole country, have a dire need for quality child care slots especially in the area of infants and toddlers, special needs and after hours care. The waiting list for child care slots is long. Few facilities exist in Indian Country that are suitable for child care. Tribal programs seek to be pro-active in their child care needs assessments and alleviate the immediate need for spaces for our children to be cared for. Tribes assess the needs for families in the future in regards to child care demands and work towards accomplishing their goals.

The level of funding for CCDF is not a constant. Levels increase and decrease. A tribe may have long range plans, using multiple years of funding, to develop and construct a child care facility to care for children in their tribe. When the level of funding for a particular year decreases, tribes are unable to use funds for construction without the level of service delivery decreasing. Tribes must have the ability to plan and carry out their long-range goals if the level of funding decreases for a particular year.

Current Legislation:

The Child Care and Development Block Grant Act of 1990, as amended, limits Tribes' use of funds for construction and renovation of child care facilities if it will decrease their level of services from the previous year.

Legislative Recommendation:

42 USC 9858m(c)(6)(C) is amended by deleting "The Secretary" and substituting "Except as set forth within, the Secretary" and by adding the following new sentence: "The Secretary may permit an Indian tribe or tribal organization to use amounts provided under this subsection for construction or renovation even when such activity will result in a temporary decrease in the level of services, as set forth in the first sentence, when such construction or renovation is made pursuant to provision of increased future child care services and is made pursuant to a multiyear construction or renovation plan, approved by Secretary."

BASE AMOUNT

ISSUE: #7

Tribal base amount is essential to maintain and administer Child Care and Development Fund programs. However, the determination for the base amount must be equitable.

The Child Care and Development Block Grant includes a base amount as determined by the Secretary to ensure sufficient funding for child care operations. The formula for deriving the base amount for Tribal grantees is not equitable. Smaller tribes receive minimal per child funding through the formula grant process. It is necessary for these smaller tribes to receive a base amount to be able execute the delivery of services in an appropriate manner. The tribal base amount can be used to supplement allocated per child funds to meet child care service needs. The base amount received by tribal consortiums is disproportionate to the base amount for individual tribal grantees. The determination of the base amount should be adjusted to equitably distribute the amount a consortium receives vs. the amount an individual tribal grantee receives.

Current Legislation:

None. However, Federal Regulation 98.61(c)(1)(i) states, "a base amount set by the Secretary."

Legislative and Administrative Recommendation:

The determination of a base amount for tribal grantees should be made through a negotiated rulemaking process in consultation with tribal representatives to ensure an equitable division of resources.

PREPARED STATEMENT OF HON. BEN NIGHTHORSE CAMPBELL, U.S. SENATOR FROM COLORADO, VICE CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS

Good morning and thank you Mr. Chairman.

Thank you for holding this oversight hearing on the *Personal Responsibility and Work Opportunity Reconciliation Act of 1996,* better known as "welfare reform". By now we are all-too-familiar with the poor economic conditions in Indian communities:

- a jobless rate of 45 percent, and a rate of 80–90 percent in the Plains Tribes' economies;
- a reservation "brain drain" of our brightest Indian youth; and
- an anemic reservation economic base in which Indian people cannot get good jobs.

And, as you know Mr. Chairman, despite some recent success with Indian gaming, natural resource development, and other business opportunities, most of Indian America suffers from an unemployment rate that is five to ten times the national average.

The welfare reform act was a landmark achievement when it was signed into law in 1996. It requires the Department of Health and Human Services to authorize and assist Indian tribes in establishing their own, unique welfare systems and rules to match the unique circumstances of reservation geographies and tribal economies.

In some respects, the welfare reform act is modeled after the successful Indian Self Determination and Tribal Self Governance Acts.

For the first time, Indian tribes are authorized to design, implement and administer their own tribal Temporary Assistance to Needy Families [TANF] programs.

For the first time, Indian tribes receive direct funding to design welfare programs that were tailored to the rural and economically depressed nature of Indian country.

Now, 6 years later as we revisit the welfare reform act, the tribes are telling us that there can administer these programs and administer them well.

The tribes are also telling us that they do not stand shoulder to shoulder with the States when it comes to receiving technical assistance and other "capacity-building" resources that have been made available to the States for decades.

These funding inequities are preventing the tribes from making full, best use of the TANF program and in turn from helping their members transition from welfare to work.

I believe that in administering welfare reform, Congress and Indian tribes must work together to enhance opportunities in Native economies and provide job opportunities to Indian people.

That, Mr. Chairman, is real welfare reform.

In reauthorizing the welfare reform act, we should perfect it and make sure that it helps a tribal member with the services he or she needs to get and keep a job. Its that simple.

With that, I look forward to hearing from our witnesses.

Thank you Mr. Chairman.

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